

1 the panel that would like to address this --

2 CHAIRMAN DUNCAN: He hasn't testified yet.

3 If you want --

4 SENATOR LUCIO: Oh, I'm sorry.

5 CHAIRMAN DUNCAN: Why don't you let him --

6 UNKNOWN SPEAKER: (Inaudible) your
7 question, sir.

8 CHAIRMAN DUNCAN: Why don't you let him
9 testify and then you can -- then that way the full
10 panel can be --

11 SENATOR LUCIO: I didn't know who had
12 already testified.

13 CHAIRMAN DUNCAN: Mr. Wallace, go ahead
14 and state your name and who you represent.

15 MR. WALLACE: I'm Skipper Wallace, and I'm
16 the state legislative chairman for the Republican County
17 Chairmans Association. I appreciate the opportunity to
18 address this panel today. We in the County Chairmans
19 Association, our main goal is to improve the election
20 process by making it fair and on a level playing field
21 for everybody. We feel like that the voter ID as stated
22 would be one of the most significant things we could do
23 to make elections more honest and above board.

24 In the process of developing our
25 legislative program, we took testimony from county



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1 chairs from all over the State of Texas, and one of the
2 main complaints -- in fact, I've identified this as
3 their number one priority -- was that they felt like
4 that they had incidences of voter fraud in their
5 elections. Having been an election judge and worked on
6 elections for 16 years, I have run across some of the
7 same problems.

8 And there's been some testimony given that
9 there are no documented cases that we have of
10 convictions of where this is the case. That is true.
11 We -- We do not have documented cases. There are a
12 couple of reasons for that. First, an individual case,
13 an election worker -- if you ever worked as an election
14 judge, you understand the hectic nature of the -- of the
15 balloting process itself. It's very hurried. There's
16 people waiting in line. You want to move them through
17 as fast as you can. You think this guy's impersonating
18 somebody else, but you don't have a lead pipe to prove
19 stench, so you go ahead and let it ride. Well, then
20 later you find out, well, you didn't. Well, you don't
21 have any proof to be able to go to a DA with to document
22 that. There is a significant amount of evidence that
23 you have to take to actually prove up one of these cases
24 which makes it very difficult.

25 Also, DAs in these local communities,



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1 local counties, this is not high on their priority list.
2 Murders, rapes, drug cases, all these kind of things are
3 way up here on the pecking order. Voter fraud,
4 impersonation is way down here. They do not place a
5 very high importance on voter fraud cases. Therefore,
6 it's extremely difficult to get a local DA to even look
7 at one of these cases. That's one of the reasons that
8 we do not have any cases filed or any cases completed on
9 this.

10 We feel like once the voter ID is
11 implemented, then we will cut down this. In fact, our
12 feeling is an ounce of prevention is worth a pound of
13 cure. We can't prove through cases that we have a
14 problem. The opposition side can't prove that we don't
15 have a problem.

16 CHAIRMAN DUNCAN: You need to wrap up.
17 Your time has expired.

18 MR. WALLACE: Okay. Anyway, the Texas
19 Republican County Chairmans Association very much
20 supports the voter ID legislation, and we'll be glad to
21 answer any questions.

22 CHAIRMAN DUNCAN: Senator Lucio?

23 SENATOR LUCIO: Mr. Wallace, do you have
24 any -- any information or any kind of proof of a DA,
25 anyone in Texas, that cared not to take up a voter fraud



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1 complaint from anyone in our state?

2 MR. WALLACE: Do I personally have a
3 specific instance? I do not. I might can get you some.
4 They came from county chairs to me --

5 SENATOR LUCIO: That would be extremely
6 important, I think, for the members of this committee to
7 know that there's -- there's evidence out there, there's
8 proof of some district attorney in our state who failed
9 but didn't want to prioritize, you know, a vote of
10 fraud. I think I would really like to know that. I
11 really would. I think that would make it an issue for
12 me to -- to possibly look at this piece of legislation
13 in a different tone.

14 I have certain questions. I'll try to be
15 as brief as possible. At this point why -- I mean, I
16 guess you told us why you felt you needed legislation
17 now, but it seems if this measure was really needed, we
18 would have passed it decades ago. Do you recall who
19 started to push this legislation and when in the years
20 past?

21 MR. WALLACE: I think the major push was
22 two years ago. The County Chairmans Association
23 supported it then, testified for it then.
24 Representative Mary Denny, from Denton, I believe, was
25 the main -- was the carrier of the bill. We got it



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1 passed in the house. We got it to the senate, and we
2 got a point of order, I believe, which killed the bill.
3 We since tried to re-look at it and reorganize it and
4 reintroduce it and have been able to get it back in the
5 house, and now here we are in the senate at the State
6 Affairs Committee and would like to see it moved on from
7 here. Does that answer your question, sir?

8 SENATOR LUCIO: Yeah, that's fine. I'm
9 going to be quoting from this document that was given to
10 us by Royal Masset, Republican Political Consultant.
11 Actually, it was published in the Quorum Report, and we
12 asked him if we could have permission to quote it, and
13 he obviously approved it. And there's several --
14 several (inaudible) to -- to -- or subtitles to, The
15 Voter ID Will Kill My Mother's Right to Vote is the
16 title. And he says he agrees with David Dewhurst --
17 obviously, Lieutenant Governor David Dewhurst's comments
18 that we should ensure that we maximize the number of
19 votes which in all -- which is all in our best
20 interests, but that we limit our elections to American
21 citizens. I think all of us agree to that. He also
22 goes on to quote the lieutenant governor. I can't
23 imagine anyone who could be against the concept. I
24 agree with David 100 percent, he says, and if he -- and
25 if he is a man of intelligence and integrity, he will --



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1 he's saying he will not support HB 218. It goes on,
2 there's no evidence on the record that non-American
3 citizens have voted in past elections in a manner that
4 would have stopped -- have been stopped by House Bill
5 218. Under voter fraud is a problem, it says, however,
6 voter fraud by individual voters is extremely rare.
7 Under voter fraud, it's rare -- it goes on to say it is
8 100 times easier to get a legal voter to the polls than
9 it is to get someone to illegally register and then talk
10 to them into voting for your candidate and getting them
11 to vote. I think right here on reports show absence of
12 misuse, registration cards, it's ready where I have a
13 star. The most credible recent study on illegal voting
14 in Texas was done by Attorney General Greg Abbott.
15 Abbott last year says, as best as I can determine, he
16 says he found no cases of illegal aliens casting
17 voters -- votes with fraudulent registration cards. I
18 think this is a very important statement.

19 He goes on to the Burka Blog where he
20 quotes many asserted that the impersonation of voters is
21 probably the least frequent type of fraud, and so on and
22 so forth. In other words, it goes -- it goes the direct
23 opposite of what you testified -- just testified on that
24 there's -- there are -- there are, I don't know,
25 frequent cases or cases where there has been voter



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1 fraud. And my question I guess, number one, is have
2 those been documented? Have we already -- Are we able
3 to see something and some things in writing where, you
4 know, heck, if there is so much that voter fraud is
5 going on? I'm all for making whatever adjustments needs
6 to be -- need to happen to be able to do it. But the
7 final page on this, he says, how does one verify the
8 genuineness of nonvoter IDs almost all of which can be
9 computer generated in seconds? And, finally, millions
10 of Americans citizens whose parents have been here for
11 generations don't have birth certificates and are
12 undocumented.

13 I'm going to say that my dad passed away
14 in September, but for the longest of time -- he was born
15 in Brownsville, and thank God there was still a few
16 old-timers around to -- to sign on to the late birth
17 certificate request, but he was a veteran of foreign
18 wars, disabled American veteran, worked for the
19 sheriff's office for 30 years. He was an American
20 citizen, yet technically he had never really taken care
21 of his birth certificate, and I know that there's still
22 a lot of people out there, thousands and thousands of
23 people possibly, especially along the border -- border
24 states that, you know, is kind of parallel to what my
25 dad's problem was. What do we do with them?



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1 MR. WALLACE: Senator, I don't -- I'm not
2 sure that I have the perfect answer for that, but I know
3 that voting is -- is not only a right, but a privilege,
4 and I think it's worth the effort --

5 SENATOR LUCIO: I go on its a
6 responsibility.

7 MR. WALLACE: It also is a responsibility,
8 yes, sir. And I think it deserves the effort that it
9 takes to -- to identify and prove up that -- that you
10 have a photo ID that really you are a citizen of the
11 United States. That's not in this bill, but -- but I
12 really feel like that -- that's not asking too much of
13 someone.

14 SENATOR LUCIO: Well, if we wish to do a
15 study, I think probably the ones that most -- most
16 frequent or so anxious to vote are those that just
17 became naturalized and become American citizens. Those
18 are people that want to be in the front line when it
19 comes to voting, and they don't take -- they don't take
20 it for granted because wherever they come from in this
21 world, they've a harder time. I just want to make sure
22 that no one's left out of the process.

23 I certainly respect the fact that, you
24 know, we -- we certainly want to make sure that there's
25 no voter fraud, but in this case, if someone could show



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1 me that there's an outbreak, that I would very much join
2 my -- my -- I want to say favorite, but my one of my
3 favorites of all time chairmans, Chairman Fraser.

4 SENATOR ELLIS: Well, wouldn't you able --
5 (inaudible).

6 CHAIRMAN DUNCAN: He is my committee.
7 Chairman Ellis?

8 SENATOR ELLIS: Mr. Wallace?

9 MR. WALLACE: Yes, sir.

10 SENATOR ELLIS: Thank you for coming.
11 Which county are you from?

12 MR. WALLACE: I'm actually chairman in
13 Lampases County.

14 SENATOR ELLIS: And you said that in your
15 experience -- your career as election judge, you have
16 seen instances of voter fraud.

17 MR. WALLACE: I've seen instances where
18 I've suspected it to be voter fraud.

19 SENATOR ELLIS: Did you report it?

20 MR. WALLACE: No.

21 SENATOR ELLIS: Do you know of any of the
22 precincts judges at the grassroots level have seen it
23 and they reported it.

24 MR. WALLACE: Well, and did report it and
25 they reported it to me. We didn't carry it any further



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1 to the district attorney, no, sir.

2 SENATOR ELLIS: Do you think that if this
3 could have a chilling impact on some people showing up
4 with this voter ID requirement?

5 MR. WALLACE: Well, you know, anything can
6 have a chilling impact on some people. If we changed
7 the polling location has a chilling impact on some
8 people, but I really think that the -- the requirement
9 to produce a -- a photo ID -- I had to produce a photo
10 ID to pick up my grandson at the elementary school the
11 other day, and maybe at your video store, you don't have
12 to, but I did have to present a photo ID to get a video.

13 SENATOR ELLIS: But you do agree this
14 could discourage some people from voting.

15 MR. WALLACE: Anything could discourage
16 people.

17 SENATOR ELLIS: Anything. If you all were
18 going to move a polling place as a party leader, do you
19 take into account whether or not if it's higher wait,
20 it's more difficult, it's a lot of traffic? Do you try
21 to accommodate things to encourage more people to show
22 up to vote or are you pretty happy with the voter
23 turnout in your county?

24 MR. WALLACE: Well, I don't think anybody
25 can say that we would be happy with the voter turnout as



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1 low as it is. However, I'd like to have people who know
2 what they're voting for to come vote.

3 SENATOR ELLIS: So you try to do things to
4 figure out how to get more people to go vote.

5 MR. WALLACE: We try to make things as
6 easy as we can to vote within a reasonable nature of
7 having the folks that are supposed to vote vote.

8 SENATOR ELLIS: Yeah. You mentioned you
9 all have processes and this was your top priority. I
10 assume you all have hearings or meetings around the
11 state or something?

12 MR. WALLACE: We have -- We have a hearing
13 here at the capital.

14 SENATOR ELLIS: What other issues are in
15 your agenda?

16 MR. WALLACE: There are --

17 SENATOR ELLIS: Related to election
18 matters.

19 MR. WALLACE: Proof of citizenship to
20 register to vote, papertrail, where a two county
21 chairmen have a dispute, one runs against the other and
22 the other gets elected and won't turn over the records,
23 transition of county chairs, notification of county
24 chairs for election meetings. I have a -- can give you
25 a copy of my agenda if you want.



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1 SENATOR ELLIS: Was there any discussion
2 when you had your hearings or meetings around the state
3 about whether or not this provision would have more
4 impact on one group or one party than another? Did you
5 have any discussion on what impact it would have on your
6 base voters?

7 MR. WALLACE: I don't think we really
8 looked at it from the perspective of would it benefit us
9 anymore than it would the democratic party or the green
10 party or the Libertarian party. No, I don't recall any
11 discussion like that. I think what -- what our concern
12 was that it would improve the election process.

13 SENATOR ELLIS: Any discussion on whether
14 or not it would have more impact on the elderly or on
15 the party groups?

16 MR. WALLACE: Well, when you look at the
17 situation that there are over 14,000 driver's licenses
18 issued. There's over 2,000 ID cards issued by the DPS,
19 and there's a little over 12,000 registered voters. We
20 really couldn't figure out, you know, how many people we
21 were really putting out to go get a picture ID.
22 Every -- We were talking about the senior citizens and
23 maybe indigent and folks on welfare and stuff. They
24 have to prove at some point in time to be able to get
25 those benefits.



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1 SENATOR ELLIS: You all didn't focus on
2 whether or not it would have additional impact on any
3 particular party, the elderly, minorities. Just didn't
4 hit the radar screen.

5 MR. WALLACE: Well, I can't say that
6 somebody might not have mentioned it, but it wasn't a
7 high priority.

8 SENATOR ELLIS: How did the issue come to
9 you all? I know this is a national movement around the
10 country. Was this sort of home grown or was this
11 something that has been in discussions around the
12 country as --

13 MR. WALLACE: An issue came to my
14 committee presented by several county chairs that they
15 said that they had problems, and they were very adamant
16 that this should be one of our high priorities, and, of
17 course, having been a priority two years ago, it was not
18 hard to convince the committee that we should make it
19 high priority this year.

20 SENATOR ELLIS: Thank you.

21 CHAIRMAN DUNCAN: I will note for the
22 record that in 1948 Coke Stevenson had a little trouble
23 proving fraud too. Senator Fraser?

24 SENATOR FRASER: Just --

25 SENATOR ELLIS: In 1948 my base was not



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1 voting.

2 CHAIRMAN DUNCAN: You are aware of that as
3 well.

4 SENATOR ELLIS: They had a poll tax month
5 other things.

6 CHAIRMAN DUNCAN: We have come a long way,
7 haven't we? Senator Fraser?

8 SENATOR FRASER: Senator Ellis, just for
9 your clarification, last Thursday -- last Thursday you
10 voted on three different bills that were brought to me
11 by the Republican party, but endorsed by the Democratic
12 party, so they have a long list of things that they did
13 of which this was one issue that was brought with them.
14 I don't represent the Democratic party endorsed that --
15 this particular issue, but the other three you voted on
16 Thursday I think were all joint -- they were all joint
17 programs --

18 SENATOR ELLIS: Let the record reflect
19 I've been trying to help this grand old party. You
20 know, Lincoln was one of my favorites. I don't know if
21 you are aware of that. I stated that many times.

22 SENATOR FRASER: We appreciate your
23 support.

24 MR. WALLACE: Senator, of the 21 --

25 SENATOR ELLIS: Which we have overcome. I



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1 want you to be aware that.

2 MR. WALLACE: Of the 21 issues that I had
3 as a legislative agenda, we met with the Democratic
4 party and they agreed with 14 of them, and we have
5 mutually supported those issues through the process this
6 year.

7 SENATOR FRASER: So there was a long list
8 of things that they brought forward, several they asked
9 me to carry, and we've got three of you voted on --

10 CHAIRMAN DUNCAN: I will say this too from
11 my perspective, that the county chair organizations of
12 both parties really try to do a really good job of -- I
13 mean, there are some issues that are partisan based.
14 That's just natural, but by in large on fundamental
15 issues, they try to come up with some reasonable vote --

16 MR. WALLACE: What's good for us is good
17 for them, so --

18 SENATOR ELLIS: But did they -- did they
19 agree on this one that (inaudible).

20 MR. WALLACE: No, they didn't agree on
21 this one. We disagreed to disagree on a few of them.
22 (Inaudible).

23 CHAIRMAN DUNCAN: Let the record be clear,
24 I'm sure they didn't agree on this one.

25 MR. WALLACE: No, sir.



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1 SENATOR FRASER: And if I could, I need to
2 clarify, Royal Masset is a good friend, known him
3 forever, and I just -- I'm assuming probably he hasn't
4 seen the new committee substitute, but in just
5 clarifying, you know, Senator Lucio, if there's someone
6 that has voted by mail before, nothing changes. If they
7 haven't voted by mail, all they got to do is just send
8 in any type of identification.

9 And it comes to mind -- My mother's in a
10 retirement center, and I'm -- you know, what -- our
11 adventure everyday is to go take her cart down and get
12 her to the mailbox. She gets mail, you know, weekly
13 from some governmental entity, her Social Security
14 check. She gets -- You know, any time we do Medicare
15 and have to go to the doctor, she's got a little
16 Medicare card. We cannot go to the doctor unless we
17 have that Medicare card.

18 So any of those forms of identification if
19 they want to vote by mail still is in effect. Well, the
20 same thing applies if they want -- if -- if I can help
21 my mother on that day to take a field trip, I'm going to
22 try to get her out of the retirement center and we're
23 going to go down and vote. I know just -- she has
24 probably five different types of photo ID, you know,
25 military ID, her past driver's license and all that.



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1 But let's say that she didn't, the mail that she
2 received the last three weeks will probably have some
3 communication from the government which would be
4 Medicare, Social Security check, something -- you know,
5 income tax, something that came in. So any of those
6 will work.

7 And I can't imagine any elderly person --
8 I guess, Skipper, I think you're probably aware. I've
9 heard it numerous times, but the district that I
10 represent, I understand is the oldest age -- average age
11 district of any district, senatorial, state, because we
12 are in a retirement community.

13 MR. WALLACE: I couldn't testify to that,
14 but I've heard that a couple of years.

15 SENATOR FRASER: You know, almost my whole
16 area are retirement places, and I think I probably
17 represent the oldest average age of anybody in the
18 state. I find it interesting, if that's the case, and
19 AARP -- AARP, the people that I represent, I would
20 suspect most are members including -- you know, how to
21 get their mail -- and I don't want to represent your
22 answer, but you might get mail from them.

23 MR. WALLACE: I'm 62, Senator.

24 SENATOR FRASER: So the people that I
25 represent -- And I think the fact that you brought this



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1 bill forward representing the people of this -- my
2 senatorial district, I'm not being overrun with people
3 that are retirement age people saying they're being
4 disenfranchised is that I think we have a very, very
5 easy mechanism that is on the -- not only ongoing, but
6 it's easy to comply with and things they've been doing
7 for years. And I -- I would, I guess, ask you, are you
8 hearing an outcry from the people our age or older that
9 they've got a problem and not going to be able to vote?

10 MR. WALLACE: No.

11 SENATOR FRASER: I would -- I know that's
12 being brought forward, and I guess -- I'm sorry, I'm
13 having trouble with that concept and more especially the
14 fact that I am in and around a retirement home virtually
15 if I'm home daily and visiting with people, and I
16 just -- I know the mail that comes in to an elderly
17 person, it's going to be real easy for them if -- and
18 probably my mother will vote by mail, and I'll probably
19 help her do that, and if she had qualified it will be
20 easy to do, and that is current law today.

21 SENATOR ELLIS: When you are in a
22 retirement home and you want me to take you to vote and
23 you don't have your ID, in a (inaudible) will arrive and
24 will you take me?

25 SENATOR FRASER: Well, I would hold the



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1 point that I take my mother to the doctor all the time,
2 and she cannot go to the doctor unless she has her
3 Medicare card. You have to have that, and they have to
4 make a copy of it, otherwise, you can't go to the
5 doctor, and you also -- your -- your revenue that you
6 gets from the government, and almost everybody still
7 gets Social Security, I think, and they get mail, so
8 that's all they have to have for identification.

9 CHAIRMAN DUNCAN: Senator Lucio has a
10 question. Members, I really -- I think this back and
11 forth dialogue is absolutely what we need to be doing on
12 this, so I'll recognize two at a time.

13 SENATOR LUCIO: Thank you, Mr. Chairman.
14 Chairman Fraser, so what you're saying is all the senior
15 citizens that are in nursing homes will have the ability
16 to make copies through the main offices. You think
17 there will be an expense for that -- in doing that for
18 them? This is an expense. I'm sure that they are not
19 going to be --

20 SENATOR FRASER: Senator, I can't
21 represent just blanket that it does. All I know is
22 looking at the ones that my mother's in and my
23 grandmother's in, and those are --

24 SENATOR LUCIO: But, you know, the State
25 of Texas is so diversified, but I won't make that an



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1 issue. If it is an issue, I won't make it this morning.
2 I just very briefly set up a scenario for you,
3 Mr. Wallace or Senator Fraser or me or Chairman Duncan
4 or anyone in this committee, anyone that's here. You go
5 down to your polling place you voted for many years, and
6 there are people that know you. Under this legislation,
7 if you forgot your voter registration at home or an ID,
8 I've done that many times. As a matter of fact, I do it
9 90 percent of the time, and I sign information or I sign
10 my name. Under this legislation, you're going to have
11 to go back home or go get a ID. You won't be able to
12 vote, correct?

13 MR. WALLACE: I -- I believe you are still
14 able to vote provisional ballot -- provisional ballot,
15 which you get the opportunity -- if you forgot your
16 identification at home, you can still get identification
17 to the voter registrar's office and then your vote will
18 be counted. I believe that's the way the bill works.

19 CHAIRMAN DUNCAN: We do have a resource
20 witness here, Ms. --

21 SENATOR LUCIO: Let's talk about that for
22 a minute.

23 CHAIRMAN DUNCAN: From the Secretary of
24 State's office. Senator Van De Putte?

25 SENATOR VAN DE PUTTE: Thank you,



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1 Mr. Wallace for being here and certainly appreciate it.
2 If all the data and statistics suggest that if we do
3 have voter fraud, that it's not voter -- where they try
4 to do the -- misrepresent who they are at the polls.
5 And I would say to you being involved in the process,
6 there's probably a certain amount of some sort of maybe
7 not fraud, but where the processes aren't adhered to.
8 This is impersonation. So I don't know how many cases,
9 and it doesn't seem in questioning -- and we'll have the
10 Secretary of State's office up here and the Attorney
11 General's office, but they have not been made aware
12 of -- and no cases have ever been prosecuted -- of voter
13 impersonation because I think all of us want to have the
14 strongest most protected system, but not at the expense
15 of voter suppression.

16 And so my rationale in looking at this is
17 knowing what it's going to do and what it's done in
18 other states to lower the percentage when the
19 misrepresentation of who you are isn't -- doesn't really
20 occur or if it does, it's in so small cases.

21 Can you tell me what -- I know that you
22 stated that your -- that you would like to see more
23 voter turnout as we all would. What does your party
24 platform have in it that pertains to voter registration
25 and voter ID?



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1 MR. WALLACE: Well, our voter party
2 platform does promote voter ID. It specifically
3 promotes this kind of legislation to improve the voting
4 process.

5 SENATOR VAN DE PUTTE: And does your --
6 your platform also include -- And the reason I did it is
7 because I used to chair the platform committee on the
8 Democrat side. I looked at the document on the
9 Republican side is basically tried to have as few words
10 as we could to get the point across, and I understand
11 the platform that the Republican party has, which I'm
12 sure you support being a county chair. It also calls
13 for registration every two years -- for voter
14 registration every two years.

15 MR. WALLACE: I don't have that document
16 in front of me and I'm afraid I'd be --

17 SENATOR VAN DE PUTTE: Well, I think it
18 is, and so my question is if you had supported a
19 document that calls for registration every two years,
20 doesn't that kind of limit or suppress voter turnout?

21 MR. WALLACE: I don't -- I don't know that
22 I could -- if that is in the platform.

23 SENATOR VAN DE PUTTE: I think it is.

24 MR. WALLACE: I don't know that I could
25 support that particular plank of platform.



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1 SENATOR VAN DE PUTTE: Thank you for being
2 honest. The second thing is if this is voter
3 impersonation, and that's what we're talking about in
4 this bill, it's a way to make sure that the people say
5 who they are, and if somebody wanted to steal an
6 election, I'm going to tell you I don't think this is
7 the way to do it because it would really call attention
8 to who that person is to get a whole group of people to
9 go and vote for a certain candidate, not saying --
10 trying to falsify who they are. So it's not a very big
11 problem, voter impersonation, and that's what the bill's
12 about.

13 But the cost on the fiscal note to the
14 state is it \$1.4 million from my Texas Mobility Fund,
15 and I know it's as a conservative how can you support
16 this costing us almost a million and a half dollars when
17 the problem of voter impersonation is so very rare. It
18 seems to me kind of out of balance, and I'd like your
19 thoughts on that since it does cost us out of our
20 Mobility Fund, 1. -- about a million and a half dollars.

21 MR. WALLACE: I'm not -- For me with the
22 specifics of how that number was generated, I've not
23 seen those details. I would like to see that. I'm sure
24 there would be some additional cost to the state since
25 in the bill we have provided in that anyone that came



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1 and needed a photo ID, there would be no cost to them.

2 SENATOR VAN DE PUTTE: That's correct, and
3 that's what the cost is.

4 CHAIRMAN DUNCAN: For the record, the
5 methodology of that would be that the DPS assumes 100
6 percent -- that the methodology seen on Page 2, it just
7 depends on how many card holders would choose to use
8 their ID cards as voter ID, the DPS assumes 100 percent
9 of those are 536,888 card holders would use the card for
10 voting purposes only. So that's -- And it's a \$15 --
11 the fee would be waived, and so it's about how they get
12 there in the fiscal note.

13 SENATOR VAN DE PUTTE: And maybe we could
14 get your help, but, you know, normally, we -- even if --
15 if this was a huge, huge problem, I think there's other
16 methodology if we've got significant voter fraud to get
17 it, but this only deals with voter impersonation.

18 MR. WALLACE: Senator, one of the things
19 that keeps it from being thrown out is there are no
20 documented cases. If you'll look at the whole scenario
21 of voter fraud cases, there are very few documented
22 cases of voter fraud that have gone through the AG's
23 office in the courts, period. And, you know, there's
24 lot of different reasons for that, as I went into some
25 of those earlier. But I -- I just feel like that -- and



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1 it's not something I've got some hard evidence on.

2 SENATOR VAN DE PUTTE: Okay.

3 MR. WALLACE: And it's unless the county
4 chairs from all over this state are lying to me, which I
5 don't think that they are, they perceive that there is a
6 problem.

7 SENATOR VAN DE PUTTE: Well, and I'm
8 concerned about that because --

9 MR. WALLACE: And am too.

10 SENATOR VAN DE PUTTE: -- as far as I
11 know, any time that there is a problem, I know that --
12 and I don't know about Republican county chairs, but I
13 know Democratic county chairs don't go to the DA. They
14 go straight to the Secretary of State's office to either
15 file a complaint or to notify the Secretary of State's
16 office, and maybe when they get them up here -- I think
17 that's kind of the proper route rather than you don't go
18 to your district attorney or to your police officers. I
19 think that you go to Secretary of State, and as far as I
20 know I think they do go, but it hasn't been for that --
21 and I think one reason why the elections run so smoothly
22 is because county officials are dedicated to a clean
23 verifiable process. I think our election judges do a
24 great job in training, and I think one of the reasons
25 things go so sweet, when you think about the millions of



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1 votes that are cast and the numbers of, I guess, voter
2 impersonation cases that we have -- I think that --
3 that's because I think they're doing a good job. I
4 think our county chairs are going a good job. Certainly
5 there's always room for improvements, but why when we
6 have such a miserable voter turnout compared to other --
7 even third world countries, we have such a small voter
8 turnout compared to other countries, I just don't
9 understand why we wouldn't be doing everything we can to
10 increase voter turnout rather than to knowingly
11 suppress, particularly, the elderly population when
12 there's very few cases of it.

13 MR. WALLACE: Well, there's considerable
14 difference of opinion as to whether it would suppress
15 the voter turnout.

16 SENATOR VAN DE PUTTE: Well, the data
17 shows us that it does and I (inaudible) look at the
18 data.

19 MR. WALLACE: I just telling a scenario
20 that says the reason that the voter turnout is less is
21 because there's no fraud, so I -- you know, I can't
22 prove that one way or the other. So we can't prove, you
23 know, why the voter turnout goes down. We -- You got to
24 assume that -- that it's because we make it more
25 difficult. Other side assumes because we don't have the



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1 fraud anymore, so, you know, those are some of those
2 things that are out in the gray area that you or I will
3 probably never be able to prove one way or the other.

4 SENATOR VAN DE PUTTE: I just don't think
5 that 3 to 5 percent of all voters today are coming in
6 and impersonating other voters. I just cannot believe
7 that.

8 MR. WALLACE: I have no idea.

9 SENATOR VAN DE PUTTE: And having to work
10 an election, and that's what the -- the strategy -- we
11 would adopt this. We know that it's going to
12 disenfranchise at least that many folks, and I just
13 can't brief in my heart the good job that they do.

14 CHAIRMAN DUNCAN: Let me add this because
15 I -- I've tried to just kind of listen because I hasn't
16 been a -- this hasn't been a number one target of
17 priority on my agenda, but I'm compelled by a couple of
18 things. One thing I think Senator Fraser laid out a
19 good argument in the beginning, and he says that, well,
20 if one voter votes illegally or fraudulently cancels out
21 the vote of another person who voted legally.

22 No. 2, I mentioned the Coke Stevenson
23 issue a while ago, not just trying to be funny, but for
24 a reason. There was -- I don't think anybody disagrees
25 there was voter fraud in that election. But that man



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1 couldn't prove it. I think that, you know, our poll
2 workers and election judges are not law enforcement
3 officials. They don't have protection. They don't have
4 any way to question or detain. All they can do is
5 suspect and turn it in or just -- you know, it's kind of
6 like there's a hassle to it. So the notion here is --
7 is that, well, it seems like there are -- I mean, the
8 bill -- I think Senator Fraser's done a good job of
9 trying to meet the requirements of law and then there is
10 the option of the provisional ballot, if someone forgets
11 their voter ID or whatever.

12 And I'm not sure how I understand how that
13 is so oppressive as opposed to the part -- as opposed to
14 the scenario of when someone votes fraudulently, a legal
15 vote is canceled, and that seems to me to be an
16 overriding policy principle in this whole issue.

17 SENATOR VAN DE PUTTE: And I think so,
18 Senator. It's just that if there's voter fraud going
19 on, I just don't know that it's in impersonation, that
20 people are pretending to be someone that they aren't for
21 the purpose of voting. Now, maybe mail ballots, maybe
22 other parts, but this -- this is just about voter
23 impersonation, and I don't know that that's a huge, huge
24 part of -- what we do know -- and you're right, and
25 Senator Fraser asked is it too much to ask? Well, no,



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1 it's not too much to ask, but what I'm doing is weighing
2 what's the problem that we're trying to correct? And so
3 I don't buy that we have a problem in voter
4 impersonation. We may have a problem in other areas,
5 but to me it's not --

6 SENATOR LUCIO: Votes twice.

7 SENATOR VAN DE PUTTE: -- not a problem
8 that surmounts to the type of suppression that we know
9 is going to happen.

10 CHAIRMAN DUNCAN: Thank you, Senator.
11 Senator Ellis?

12 SENATOR LUCIO: I thank Senator Van de
13 Putte is on the right track. I think there might be a
14 problem and I've heard where people might want to vote
15 twice for is for you, Senator Duncan. Since you've done
16 such a great job people go out to the courthouse and
17 voted early and then they go, you know, election day
18 or --

19 CHAIRMAN DUNCAN: I haven't had that
20 problem yet.

21 SENATOR LUCIO: I want to ask you a
22 question, Senator Fraser, and it's relative to our
23 conversation this morning in terms of voter fraud and
24 cases and statistics that we are trying to ascertain so
25 that we can, you know, have no doubt that it truly



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1 exists, and I don't know what the law says, but if
2 there's a -- there's an election judge or anyone,
3 election officials break the law, in our books today, if
4 they don't report what they feel might be voter fraud --

5 SENATOR FRASER: No.

6 SENATOR LUCIO: If that is not the case,
7 then I think we should have it and that way we can make
8 sure in the future we have the statistics necessary, how
9 will file, how many are ex-prosecutors, how many came
10 out guilty, et cetera, and that way this wouldn't be a
11 problem in terms of readily debating an issue as such.
12 If there is a major problem, I don't think we'll make it
13 (inaudible) --

14 CHAIRMAN DUNCAN: Let me turn it around --
15 Let me turn it around the other and look at it this way.
16 There's one way we can try to enforce it and that's
17 repressive tactics like questioning people or detaining
18 them for the purpose of proving voter fraud. That's
19 what you would have to do in the current system if you
20 are really going to make a case. I mean, you've got to
21 actually detain the person so that you can identify who
22 they are and force the case, and not many of our
23 election judges are ever willing to do that.

24 So what this is, this is the least
25 restrictive means to be able to verify voters, it seems



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1 to me, and not put our election judges and officials in
2 the position of having to be law enforcement officers.

3 SENATOR LUCIO: Sooner or later we are
4 going to come up with systems -- when we have the money
5 and when somebody goes in to vote, they're going to take
6 a picture of them, cameras going to go off. Every
7 voter -- It takes money and, obviously, that's going
8 to -- that's going to have the biggest check and balance
9 ever. We'll come to that. I don't think we're ready
10 for that because I don't think people are wanting to put
11 up the money for such a system, but all of those things
12 will happen in the future. I understand what you just
13 said --

14 CHAIRMAN DUNCAN: Let me ask -- Let me ask
15 kind of an rhetorical question on this too. Is it --
16 what -- Two years or in a year the Real ID Act, or what
17 I call the George Orwell special -- the George Orwell
18 Act, will come into being, and everyone will have an ID.
19 Would the objection -- Would the same objection when the
20 Real ID Act comes aboard, would -- and this is a
21 partisan issue to a certain degree. I think it's pretty
22 clear the lines are drawn on this pretty much, but would
23 the issue be any different if we had the Real ID Act?
24 That's a question we need to debate.

25 SENATOR VAN DE PUTTE: I would love to



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1 have the department here -- DPS here to explain how
2 that's going to rule out and what that does -- and maybe
3 the Secretary of State to figure out how do these work
4 congruently.

5 CHAIRMAN DUNCAN: But if every person had
6 to have an -- if every person had to have an ID, how
7 would that impact the opposition to this legislation?

8 SENATOR ELLIS: Mr. Chairman, from my
9 standpoint, I would say that we need to see how that
10 rolls out. I mean, we are talking about a
11 constitutional right here, which is different from
12 renting a movie or getting welfare is not
13 constitutional, right? It will be interesting to see if
14 on the Federal level some provisions are put in or
15 changes are put in to make sure that we don't do
16 anything to infringe on somebody's right. I mean,
17 obviously, we have to spend money -- we have to spend
18 money in terms of educating people because they are just
19 not accustomed to having had that.

20 CHAIRMAN DUNCAN: If the -- if the most
21 compelling argument -- The most compelling argument I've
22 heard in opposition to this today is the fact that some
23 people may simply not have an ID because of their age or
24 their poverty level or forget to bring it or not get the
25 information that you need to have it, and they show up



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1 to vote and they're rejected because they don't have the
2 ID, so that's an alleged disenfranchisement. So if
3 everybody has to have an ID, then doesn't that argument
4 go away?

5 SENATOR ELLIS: No, not completely. I
6 think it diminishes that argument but the difference
7 is -- You know, I left my wallet in Austin last week and
8 drove home. And you talk about a awkward feeling
9 because I have to fly -- I do things where I'm
10 accustomed to having my ID, if I'm riding my bicycle to
11 Austin. I mean, I'm accustomed to that, but we have to
12 see, first of all, whether or not they have a problem.
13 I mean what concerns all of us, there have been no
14 instances in which somebody's been prosecuted or to my
15 knowledge someone has been turned in so that you could
16 make the case.

17 CHAIRMAN DUNCAN: Let me ask you this.
18 How would that occur? Tell me how -- Walk me through a
19 real life situation at an election poll about how that
20 would occur.

21 SENATOR ELLIS: Robert Duncan goes to
22 vote. He does not have any ID. He signs this sheet of
23 paper saying that he's Robert Duncan, but as it turns
24 out, he's not Robert Duncan. He's Karl Duncan. He
25 committed voter fraud.



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1 CHAIRMAN DUNCAN: You bet. And how are
2 you going to prove it?

3 SENATOR ELLIS: Well, you prove it because
4 it will be pretty easy to go look at that signature and
5 see that the person that signed that was not Robert
6 Duncan.

7 CHAIRMAN DUNCAN: How easy would it be?
8 What would you have to do to prove that?

9 SENATOR ELLIS: Well, if you were the
10 precinct judge, you'd turn it in to the Secretary of
11 State or you'd turn --

12 CHAIRMAN DUNCAN: What if you didn't know?
13 You don't know everybody that comes in there, do you?

14 SENATOR ELLIS: Well, hey, if you don't
15 know about a crime -- I mean, there are crimes that are
16 committed everyday that people don't know about, but
17 before I think we all to leave my judgment into doing
18 something that some of us feel may have a chilling
19 impact, particularly on certain groups, on the elderly,
20 probably on the minorities, you know, probably more on a
21 partisan -- at least the vote is that it would have
22 voter impact, maybe what would amount to 3, 4 percent.
23 I mean, some people have said to me privately, well, so
24 what? When I thought the number was 1 percent vote
25 (inaudible) people would say so what? Well, that's when



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1 the argument is made sort of like a solution looking for
2 a problem. I mean, on most things we do, we just don't
3 go past things because we have official instinct that
4 some problem is going to happen. Here's what we want to
5 documented before particularly -- You know, in our
6 state, with all due respect, we have had a rather noble
7 history when it comes to encouraging people to vote in
8 the state, and we have such low turnout. I mean, you
9 and I talked privately about some states. Some
10 countries give you a ticket. If you don't vote in
11 Brazil, you get a one dollar ticket to encourage people
12 to turn out to vote.

13 So I state with so few people are voting,
14 and you talk about something that impacts minorities, I
15 mean, you know, we have history. It's not a regular.
16 Lots of things have been done to -- to discourage people
17 in Texas from voting. It's always been one of those
18 states that have embraced this notion, and even
19 (inaudible) partisan advantage. Usually we like
20 everybody to vote, but we particularly like the voters
21 that are going to come vote for us. So that's -- You
22 know, I think that's sort of -- But I was going to say,
23 Mr. Chairman --

24 CHAIRMAN DUNCAN: I know you have a lot of
25 dialogue. I think it's very interesting --



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1 SENATOR ELLIS: You've got a lot of
2 experts here, a lot of witnesses. These two just get
3 the brunt of coming up first --

4 SENATOR VAN DE PUTTE: Thank you.

5 SENATOR ELLIS: -- so, alphabetically, you
6 must have ended up in the shuffle first, but I know
7 there are a lot of others out there that probably have
8 even more experience than us on some of those issues.

9 CHAIRMAN DUNCAN: Senator Lucio has a
10 question and then we'll move to the next panel.

11 SENATOR LUCIO: Mr. Chairman, I think we
12 started a dialogue here on one of the most important
13 issues, obviously, that -- that as citizens of the state
14 we care to be involved with and that's the political
15 process. I think that at one point or another,
16 Mr. Chairman, I know that you'll agree with, we're going
17 to have to start bracketing some of these counties,
18 probably take the top counties first. In my opinion,
19 that's -- that's where most of your heavy voting takes
20 place, and start requiring people to reregister, just
21 like when they go get a driver's license and they have
22 their picture taken, have that in the computer so when
23 people show up to vote, it comes out in the computer.

24 At least every 10 years -- I know you
25 still use your 10-year photos in the senate. And we



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1 still recognize you, the fact that you haven't aged.
2 But seriously speaking, I think that's the system that
3 had -- is going to have to take place sooner or later,
4 and we are not going to have to worry about voter fraud.
5 We're going to know that it's you right there in front
6 of us.

7 CHAIRMAN DUNCAN: It would serve if you go
8 get a new photograph.

9 SENATOR LUCIO: But, seriously, I think --
10 I think we're going to have to look at that. That way,
11 we're not going to have -- make this in any way a
12 partisan issue. It wouldn't be a partisan issue. It
13 isn't a partisan issue, but, frankly, if I could get
14 documentation that would show me that there's a
15 tremendous amount of voter fraud even in my district, I
16 would gladly sign off on this legislation.

17 CHAIRMAN DUNCAN: Thank you. Okay. Let's
18 bring up -- Thank you, Senator Lucio. Let's bring up
19 our next panel, and then -- but before everybody kind of
20 moves around, let's go ahead, and the clerk will call
21 the role.

22 THE CLERK: Duncan.

23 CHAIRMAN DUNCAN: Present.

24 THE CLERK: Williams? Corona? Ellis?
25 Fraser? Harris? Jackson? Lucio? Van de Putte.



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1 SENATOR VAN DE PUTTE: Present.

2 CHAIRMAN DUNCAN: All right. A quorum is
3 present. Okay. Members, we have the following
4 witnesses, David Sanchez, Helen Carvell, and Carolyn
5 Galloway. If you'll come up and state your name, who
6 you represent. Remember, you have 3 minutes. Please
7 don't read to us. And then we will not ask questions
8 until you finish your testimony. Go ahead and state
9 your name.

10 MR. SANCHEZ: Good morning. David Sanchez
11 for the record. I am the chairman of the Cameron County
12 Democratic party. Good morning, chairman, senators.
13 Thank you for allowing me a few moments today to address
14 you on this important issue, and I think it's clear that
15 most of the compelling arguments have already been laid
16 out. Rather than go over those, I'll just maybe ask a
17 few rhetorical questions. One, when you senators go to
18 vote, how many forms of ID do you have to show just here
19 on the senate floor or even the committee? You know, if
20 you only have rules for yourself, why? Because the
21 purpose of that is to make sure that there's no voter
22 fraud. That's what we're looking at here. I think it's
23 very clear that when each senator's here, they're
24 obviously recognized, so there's no issue.

25 With regard to deterring these folks from



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1 committing voter fraud at the polls, I think it's
2 important to take into consideration the fact that there
3 are minuscule cases out there, perhaps not. Even it
4 sounds like from hearing the group before me that there
5 weren't any traces of actual cases of convictions or so
6 forth. But in the case where somebody believes there is
7 voter fraud going on, where did that belief foster from?
8 Is it just the wrong party affiliation or perhaps they
9 think that person is voting for the other party.

10 I think instead of passing legislation
11 with regard to -- to tampering with someone's right to
12 vote, I think there are other safeguards that can be put
13 into place that can correct it. One of the -- One of
14 the things I heard, I think it was Senator Fraser saying
15 he couldn't imagine people not having documents that
16 would fulfill the obligations here. Well, to this day
17 there's still people that live maybe 5 to 10 adults
18 under one household, and they are not all going to have
19 their name on a utility bill. They might not all have a
20 library card. There's going to be documents that they
21 might not receive. They might not qualify for
22 government benefits. To this day, there are still
23 people who live in a home with no electricity, no
24 running water, and, nevertheless, they're still United
25 States citizens and they have a constitutional right to



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1 vote.

2 I think that as you sit here as a
3 committee and as a group of senators you need to keep in
4 mind the fact that you're representing all the
5 individuals that are out there, not just the ones that
6 are privy to some of the documentation that we presume
7 and take for granted every adult out there has.

8 Lastly, one of the other things I heard
9 coming up was how do you -- how do you deal with the
10 fact that someone that's voting fraudulently cancels out
11 a legal vote? Well, I mean, now you're presuming that
12 all the fraudulent votes are going on one side of that
13 ballot, and I would assume that they perhaps could go
14 both ways. Thank you.

15 CHAIRMAN DUNCAN: Senator Lucio?

16 SENATOR LUCIO: Mr. Chairman, first of
17 all, thank you for making the 700 mile trip one way, and
18 I appreciate you being my chairman down in Cameron, but
19 I -- I really respect chairmans of both parties. I know
20 they work very hard to represent their membership. It
21 was mentioned a little while ago that there was a poll
22 taken on several issues dealing with elections and all.
23 Were you part of that -- that survey or that poll?

24 MR. SANCHEZ: No, I wasn't. And I am a
25 county chair, so I wasn't included in that group.



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1 SENATOR LUCIO: Do you know who was?

2 MR. SANCHEZ: I don't. I would presume
3 that it perhaps was just the other party since it wasn't
4 specifically stated, but that would just be presumption
5 on my part.

6 SENATOR LUCIO: In Cameron County that
7 you've been involved with, what -- what -- what -- what
8 is the percentages of those registered to vote and
9 who -- how many do you think are still not registered to
10 vote?

11 MR. SANCHEZ: What percentage? Registered
12 voters --

13 SENATOR LUCIO: The reason I ask that is a
14 lot of people feel it's still a very hard thing to do is
15 to get involved in the political process, even though
16 they believe in government, they're interested in
17 governmental affairs and the access of government, but
18 as you mentioned, and I said it a while ago, the state
19 is so diversified that there's still people living in
20 certain areas of the state that still have a lot of
21 trouble even getting to the polls and making it a little
22 tougher on them in case they don't have proper
23 documentation at the time they are going to vote will
24 keep them away from the polls, and I'm sure that's the
25 way you feel.



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1 MR. SANCHEZ: That's exactly right,
2 Senator. As far as numbers, I will say less than half
3 the constituency -- probably half the population
4 registered. Of course, that doesn't take into
5 consideration the number of minors that there may be
6 living in the county. Other than that, the voter
7 turnout as Senator Van de Putte had said earlier, it's
8 very sad news because it's very low. It's not just in
9 south Texas, but I think around the state, and I think
10 this really deter people from coming out and vote
11 because, as you said, there are lots of rural areas even
12 in our county where people have to travel to be able to
13 vote, and if they have to make more than one trip, they
14 might not make that trip just because of the means that
15 it requires.

16 SENATOR LUCIO: I just received this, and
17 I just thought of interest, Travis County had received
18 an award, I believe, for the second year in a row for
19 being the highest voter turnout in Texas, 40 percent,
20 10 percent higher than any other county. I can't
21 remember that kind of voter turnout. I know that when
22 John Kennedy ran in the early -- in the '60s, we had
23 something similar to that, and just across the river, I
24 understand as Senator Van De Putte was referring to,
25 people coming here from other countries are used to



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1 being a part of a 90 to 95 percent voter turnout, and
2 I -- I -- every time there's an election, I know
3 there's -- much go by with accusations of voter fraud
4 and all. I don't -- I haven't seen that in Texas in
5 terms of the voter fraud issue or problems.

6 How is it in Cameron County? What can you
7 tell us about voter fraud or accusations or -- or anyone
8 that might have filed a complaint on voter fraud?

9 MR. SANCHEZ: Senator, at this time I'm
10 not even aware of any complaints being filed regarding
11 voter fraud, which I would presume that if -- if the
12 judges and workers are quite worried about this, then
13 they would be at least contacting their local
14 administrator and trying to do something to --

15 SENATOR LUCIO: And both parties are well
16 represented at the polls, so, I mean, I know that for a
17 fact, but you should know it better than I do because
18 you are involved in that directly; is that correct?

19 MR. SANCHEZ: That's correct. That's
20 correct.

21 SENATOR LUCIO: Thank you, Mr. Chairman.

22 SENATOR FRASER: Mr. Chairman?

23 CHAIRMAN DUNCAN: Senator Fraser?

24 SENATOR FRASER: Clarify a point since
25 we're talking about Mexico and a neighboring country,



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1 their voter turnout is much higher generally than ours.
2 And my -- I should say is they have ID? That was one of
3 the countries that was given that has photo IDs is
4 Mexico.

5 SENATOR LUCIO: But -- but -- they --
6 everyone -- everyone has -- Along the way they're given
7 a card, a national -- yeah, a national type card ID
8 card, and we don't do that.

9 SENATOR FRASER: Well, they -- they have a
10 card that shows their ID and their turnout is high, so
11 they're -- they're not suppressing their vote because
12 they have to show their ID.

13 SENATOR LUCIO: I think though -- I think
14 that the reason for the voter -- high voter turnout in
15 Mexico is that they live with a lot of faith that their
16 government can some day respond to the wishes of the
17 general public, which, unfortunately, I happen to agree
18 with so many that they don't.

19 CHAIRMAN DUNCAN: Where does that faith
20 come from?

21 SENATOR LUCIO: That's where they -- why
22 they migrate to Texas and America.

23 CHAIRMAN DUNCAN: Hey, let me ask a
24 question of Mr. Sanchez. What is the -- Does the
25 Democratic party platform have a -- does it address the



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1 issue of voter ID?

2 MR. SANCHEZ: I'm sure it does. I cannot
3 give you the specifics.

4 CHAIRMAN DUNCAN: Would you be -- What
5 would be that position?

6 MR. SANCHEZ: As I said -- just said, I
7 couldn't give it to you because I'm not completely aware
8 of that. I wouldn't want to misrepresent --

9 CHAIRMAN DUNCAN: You don't read your
10 platform?

11 SENATOR VAN DE PUTTE: Mr. Chairman, I
12 don't think -- and I'm familiar with the platform. I
13 don't think the Democratic party has decided that --

14 CHAIRMAN DUNCAN: One way or the other?

15 SENATOR VAN DE PUTTE: -- voter
16 impersonation is a problem, so I don't know that the
17 parties have addressed it.

18 CHAIRMAN DUNCAN: Well, and often the
19 platforms will take a position to oppose something as
20 well. I don't know if you all have done that or not. I
21 know our -- the times I've read it, ours does that, but
22 I don't know -- I don't know if the Democratic -- I'll
23 have to admit I have not read the Democratic party
24 platform. All right. Helen Carvell?

25 MS. CARVELL: Yes. My name is Helen



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1 Carvell, and I'm representing myself here, and I have
2 worked the elections here. I have been the judge, and
3 I've also been a voter registrar, and I've lived in
4 Mexico, Belgium and Brazil. And I'm not a hundred
5 percent sure about Mexico, but I can tell you in Belgium
6 and Brazil, the voter turnout is very high because they
7 get fined if they don't vote. The obligation is on the
8 voter. So the voter who cannot prove where they are on
9 voter day has to have sent in a mail ballot. So I think
10 we're using information to prove something it doesn't
11 prove, and I think it's also that way in Mexico, and I'd
12 be happy to investigate that for you.

13 My own experience as a judge is that the
14 voters are already nervous about providing us with
15 documentation. The -- the voter registration -- The
16 election committee has sent up a list of people who can
17 vote and their addresses. Those people sign. It would
18 be simple if you were very concerned about this to do a
19 retrospective study, just randomly check signatures over
20 a period of time, and the previous argument is Karl
21 Duncan is voting for Robert Duncan. When Robert shows
22 up and sees his signature's already been filed, if there
23 were impersonation, it would seem that that's a
24 fail-safe method, that that would happen at least once
25 in the State of Texas if voter impersonation were going



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1 on over a long period of time.

2 I think just the notice that this might
3 happen is going to create reluctance to vote on some
4 people. My husband's incredibly well educated, yet he
5 would worry that he didn't have the right form to go
6 vote. He wouldn't want to be embarrassed that way, and
7 he surely wouldn't want to stand in line for an hour and
8 then find out he couldn't vote. That would discourage
9 him very much. I can't imagine what it's going to do in
10 the precincts here where we have 19 percent voter
11 turnout. As a county, Travis may have 40 percent, but I
12 think that the minority communities the turnout is much
13 lower. We would just be -- We would just be adding
14 another burden to that populous.

15 And I'd like to reiterate when I came here
16 today my concern was that we the people, Joe Blow and
17 his sister Sue out there, we are concerned about the
18 integrity of the vote, but what we're concerned about
19 are the voting machines. We're concerned about the role
20 of money in politics. We're worried about campaign
21 finance reform. We aren't worried about the little guy.
22 We wish he cared enough to vote fraudulently. We don't
23 think he does. I think it's, as someone previously
24 stated, a problem -- a solution in search of a problem.

25 And my other big concern coming here today



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1 is the budget, and I'd like to reiterate what Senator
2 Van De Putte said. We have to justify -- You will have
3 to justify to the voters spending 1.5 million on a
4 nonexistent problem, and I really thank you for your
5 giving me the opportunity to speak today.

6 CHAIRMAN DUNCAN: Thank you, Ms. Carvell
7 any questions for Ms. Carvell? Appreciate you being
8 here and waiting. Carolyn Galloway?

9 MS. GALLOWAY: Mr. Chairman, my name is
10 Carolyn Galloway, and I'm here to testify on behalf of
11 House Bill 218 for Texas Eagle Forum. As a former
12 member of the Texas House, I can appreciate the time
13 that you spend trying make good laws for our state, and
14 I think this is a good law for our state. Since we
15 already have to show government issued ID to board a
16 plane, in our Federal building or even cashing checks
17 why not make this a requirement to ensure that our
18 voters are legal voters.

19 Honest elections are not a bipartisan
20 issue. After all, the bipartisan commission headed by
21 Jimmy Carter and James Baker studied the election
22 reform, and they concluded and issued a recommendation
23 in 2005 that voters be required to show voter ID, that
24 this is a bipartisan commission. The Arizona photo ID
25 requirement was part of Proposition 200 which was a



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1 state-wide referendum that passed a couple of years ago
2 by 56 percent of the voters, and that law held -- was
3 upheld by a Federal district judge in September of 2006,
4 but then on October 5th, it was overruled and -- by the
5 Ninth Circuit, and so they issued an injunction against
6 Arizona enforcing it. That decision was vacated by the
7 United States Supreme Court so that Arizona law does
8 remain in effect.

9 And most recently, on January 4th, 2007, a
10 three-judge panel from the US Court of Appeals for the
11 Seventh Circuit upheld Indiana's law requiring voters to
12 show photo IDs in each election. Indiana's law is
13 similar to Arizona's in its flexibility. Voters without
14 IDs can get free IDs from the Bureau of Motor Vehicles,
15 and they can cast provisional ballots until they can
16 prove their identity.

17 Voting is one of the most precious
18 privileges we have in our country. There are people
19 from all over the world, as Senator Lucio mentioned, who
20 envy our system and would not consider it an
21 inconvenience to show some form of identification in
22 order to vote and have it count. In fact, they're
23 willing to wait long hours in line, and that is why you
24 must keep the integrity of our vote. Thank you.

25 CHAIRMAN DUNCAN: Thank you, Ms. Galloway.



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1 Are there any questions for Ms. Galloway? Appreciate
2 it.

3 SENATOR FRASER: I'd like to thank the
4 Honorable Carolyn Galloway for being here and your
5 service to the state.

6 CHAIRMAN DUNCAN: Members, any other
7 questions? Thank you very much. The following panel,
8 Buck Woods, George Korbel and Luis Figueroa -- Figueroa.
9 I'm sorry. I'll be corrected, I'm sure. Mr. Figueroa.
10 Okay. Let's go ahead and begin. Mr. Woods?

11 MR. WOODS: Yes. My name is Buck Woods.
12 I was at one time director of elections for the
13 Secretary of state's office. Since that time I've spent
14 30 plus years practicing law and monitoring elections,
15 regulating elections, participating in elections and
16 filing and trying election contests, and I don't know
17 how many election contests I've tried or been involved
18 in, but I'm sure it's at least 50 over the 30 years.

19 This bill is based on a false premise, and
20 you shouldn't do that. We would never take up a bill to
21 regulate some industry or do something, take an
22 industry, without having some solid proof that that
23 regulation's needed. I have been doing these election
24 contests for all these years. I have found thousands of
25 illegal voters, persons who were not eligible to vote.



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1 In that 30-year period of time, more than 30 years, I
2 have never found a noncitizen who voted in an election
3 and I look. I have sometimes as many as 50 people
4 looking for me.

5 During the Rodriguez/Cuellar election
6 contest, I found hundreds of people who were not
7 eligible to vote. Not a one of them -- Not a one of
8 them had anything to do with what this bill addresses.
9 I've been told that the Heflin vote contest in the house
10 4 years ago, they found a person who was supposedly a
11 Norwegian and had voted. If that is true, in my entire
12 career of monitoring elections and working in them and
13 investigating them and taking depositions and doing the
14 kind of work that I've heard other people say, well,
15 they can't do, well, you can do it and I have done it.
16 I have never found a single voter that would fit -- that
17 this bill would somehow trap or catch.

18 Now, I do know what this bill will do. It
19 will create long lines. It will create thousands of
20 provisional voters. And, members of the committee, do
21 you know what happens to provisional voters? It almost
22 never gets counted because if a race is not close enough
23 for it to have an impact on a race, the provisional
24 votes are never counted, so all these thousands of
25 people that are going to turn up at the polling place



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1 and vote a provisional ballot after creating long lines,
2 they're never going to have their vote counted.

3 And I hear all this stuff about we need to
4 have to confidence in our elections so people will turn
5 up and vote. How would you feel if you knew your vote
6 was never going to be counted? This is not just a
7 problem in search of a solution or a solution in search
8 of a problem. It's this problem just simply doesn't
9 exist. I have never seen this situation before, and I
10 don't think anybody else has either.

11 CHAIRMAN DUNCAN: Thank you, Mr. Woods.
12 Any questions? Mr. Figueroa?

13 MR. FIGUEROA: Thank you, Chairman. I'm
14 sorry. I was in another meeting, but I wanted to thank
15 you for this opportunity to testify. My name is Luis
16 Figueroa, legislative staff attorney from MALDEF, and we
17 are opposing HB 218.

18 What we ask the committee to do is to do a
19 cost benefit analysis. Look at the benefits of a
20 potential problem for the issue that supposedly exists
21 and look at the costs involved, and so we start off with
22 the benefits, and I think the first thing that's been
23 missing from this discussion is that we already have a
24 voter identification requirement in Texas. You have to
25 currently present a voter registration card. If you



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1 don't have that card, you have to present photo
2 identification or another form of identification. So we
3 already have an identification requirement. What this
4 bill does is require additional identification
5 requirements.

6 Now, you saw -- the reason you have this
7 is to deal with the problem of voter impersonation. Yet
8 there's been no data -- you heard this over and over --
9 to support that there's any voter impersonation
10 occurring. We asked the Attorney General. We've asked
11 the Secretary of State. We've asked numerous agencies
12 to look into the problem of people presenting a false
13 registration certificate, and it just does not occur.

14 So we've got to look at the cost. The
15 front cost is on the poll workers. This is an issue
16 that hasn't come up much, and I know the committee
17 substitute talks about some parts of training, but we've
18 got to remember, we already asked them to deal with
19 electronic voting machines, we're already asking them to
20 deal with identification requirements that currently
21 exist, to deal with the bilingual provisions under the
22 Voting Rights Act, and all the other requirements that
23 we put on them under the state code. Now, we're going
24 to ask them to become a vote lawyer and start verifying
25 documentation, find out their compliance and see if



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1 they're in compliant with the list and to verify
2 numerous types of identification.

3 The other cost is with the voters, and
4 with constant -- less than 47 percent of
5 African-Americans -- this was in Milwaukee -- and
6 43 percent Hispanics had a valid driver's license, where
7 85 percent of whites did. The Rutger Study, which was
8 commissioned by the Election Assistance Commission found
9 that in places with voter ID, a 3 percent reduction
10 overall, a 5 percent reduction in voter turnout on
11 African-Americans, and a 10 percent reduction for
12 Latinos. We also see the impact on the disabled, the
13 elderly, young people who have not started driving but
14 are over the age of 18, people with the wrong address,
15 people who have not validated their driver's license.
16 So we see numerous costs on the voters.

17 Thirdly, there's a legal cost. We believe
18 there's a potential violation under Section 5 and
19 perhaps a potential violation under the poll tax. It's
20 a minimum of tens of thousands in legal costs. When we
21 looked at redistricting in the case in Arizona, the case
22 is around in the millions because of the appeal process,
23 and that could very well be an additional cost on the
24 burden of Texas taxpayers.

25 In sum, we'd like to just reflect on the



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1 comments by Royal Masset when it talks about this 1
2 percent -- 1 percent burden is another person's
3 practicality which is what the -- the essence of Royal
4 Masset's comments were, and Representative Anchia in the
5 House floor said there's no point in destroying the
6 forest to seek out Sasquatch. The problem simply
7 doesn't exist, and it's not worth the high costs. Thank
8 you.

9 CHAIRMAN DUNCAN: Thank you. Any
10 questions of Mr. Figueroa? Thank you, Mr. Figueroa.
11 George Korbel. George, can you state your name and who
12 you represent for the record, please?

13 MR. KORBEL: My name is George Korbel,
14 and -- Senator, how are you? George Korbel. I'm an
15 attorney. I have been involved in election cases I
16 think as long as -- as --

17 CHAIRMAN DUNCAN: And in elections.

18 MR. KORBEL: And in elections. I handled
19 the -- In 1971 I handled the first single member
20 district litigation against the state and the house, and
21 since then we've redistricted the house every decade in
22 litigation, and this chamber a few times and Congress a
23 few times. So -- And I think that up until recently
24 there's probably been no one who's paid more attention
25 to the process of elections and election fraud than I



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1 have, and I have not seen any of this sort of election
2 fraud that I think that this bill would get at.

3 And I'm thinking in terms of how would I
4 fraud an election if I wanted to start an election? If
5 I had 50 people to vote five times for -- 50 people in a
6 large school bus and I could get them to five polling
7 places to vote, that's 250 votes. Now, that's -- that's
8 only going to have an effect on a really small
9 jurisdiction, and in a really small jurisdiction, school
10 districts or cities, and I deal with those a lot, the
11 real small jurisdiction, they know everybody, so they
12 would never have that sort of fraud on that level. I've
13 seen some situations where people make mistakes or where
14 the -- or where county has made a mistake and put them
15 in the wrong voting precinct, and, therefore, they vote
16 in the wrong voting precinct. But I've never seen
17 somebody use somebody else's identification.

18 And let me run quickly through those
19 graphs that I gave you -- significant graph, see how it
20 goes. The first one shows the minority population of
21 Harris County and Dallas County vis-a-vis the other
22 states that are entirely covered by Section 5 of the
23 Voting Rights Act. As you can see, Harris County has as
24 many minorities as the entire state of Arizona -- or
25 excuse me -- of Georgia, and Dallas County has allegedly



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1 more minority population than Mississippi and Alabama
2 and states like that.

3 Now, if you look at the next pages, there
4 are some charts of where someone would get their voter
5 identification card or their DPS identification card.
6 If you look, first of all, at Harris County, you'll see
7 that in all of the -- if you look inside Loop 610, there
8 are no -- no places to go and get a ID card. The only
9 places that are available are in -- in the more suburban
10 areas.

11 Now, if Georgia had gone to the -- to the
12 justice department with a pattern like this showing that
13 there were virtually no places to get these cards in --
14 and if you look at it -- if you look at the rest of the
15 charts, they also show that in Tarrant County and Dallas
16 County and, also, one rural one in -- in Frio County,
17 and there's a 10-mile distance in Frio County, and then
18 there are some charts showing socioeconomic differences,
19 and the state has actually dealt with this before in
20 Senate Bill 300 back in 1976 objected to a
21 reregistration which is -- and for the requirement that
22 somebody provide a Social Security number.

23 And the last chart knows the breakdown of
24 the vote in the house. This is something the Department
25 of Justice looks at and as you can see all the



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1 minority -- virtually all the minority legislators voted
2 against this on final passage.

3 CHAIRMAN DUNCAN: Okay. I'm going to let
4 you get a breath and make your closing, if you want --
5 if you want a second to do that.

6 MR. KORBEL: I'm sorry.

7 CHAIRMAN DUNCAN: Is there anything else?
8 Take about a one second -- I just -- I interrupted you,
9 but let your get your breath and then if you could
10 conclude your testimony, I'd appreciate it.

11 MR. KORBEL: Well, I think that the point
12 that I really wanted to make initially was that Texas
13 has already gone through this. We have had a voting
14 rights objection to a requirement that the state -- the
15 state had that we present Social Security number in
16 order to register to vote. The Department of Justice
17 objected to that in 1976 or '77, if I'm not -- if I'm
18 not mistaken. And so I think that when this bill gets
19 over there that the first thing they're going to ask is
20 why are we redoing this? And there was also an
21 objection in '76 to a -- to a reregistration, and one of
22 the reasons for the objection to the reregistration was
23 the problems that Hispanics and African Americans would
24 have filling form out, and the data -- the differential
25 data of the chart show -- shows that that's continues to



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1 be an existing problem.

2 CHAIRMAN DUNCAN: Thank you, Mr. Korbel.
3 Any questions? All right. Chair hears none. Thank you
4 for your testimony, George. Eric Opiela -- Opiela?
5 Dina Perkins? Sonia Santana? And John Courage. We
6 have a four panel. This concludes the witnesses.

7 MR. OPIELA: Yes, sir. Thank you very
8 much for the opportunity to testify. My name is Eric
9 Opiela, and I'm the county chairman in Karnes County.
10 And having been both a victim of election fraud and,
11 also, an attorney who has handled election contests
12 before, I'm here testifying in support of House Bill
13 218. This is a common sense bill that protects
14 everyone's right to vote here in the state. It protects
15 against identity theft, and it is overwhelmingly
16 supported by voters not only in the state, but
17 nationwide.

18 In a national poll in late 2004,
19 82 percent of voters, including 75 percent Democrats,
20 supported using government issued photo identification
21 in the polls, and so this is not a partisan issue. This
22 is a bipartisan issue that is something that we -- we
23 require for people to have rights such as driving
24 requires a photo identification. Even for a more
25 protected constitutional right, we should require this



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1 as well. And as testified before, recommended by
2 bipartisan commission on Federal election reform,
3 co-chaired by president -- former US President Jimmy
4 Carter and US Secretary of State James Baker, and this
5 is a case where we have probably not at the very
6 beginning of cases as has been brought up of election
7 fraud that has been prosecuted in the state. However,
8 even just having one in which a person is allowed to
9 vote who is not registered to vote, who is not eligible
10 to vote, cancels out as a point you made, the rights of
11 people who are eligible to vote.

12 I know of places down in south Texas where
13 people have been bussed to the -- to the polls and voter
14 registration cards been handed out as they walk off of
15 the bus. I have -- I know of a number of cases in which
16 we've had rampant ballot by mail fraud across this
17 state, and this is a great first step, however, one of
18 the things that I think would be good would be to
19 require people who vote by mail to insert copies of --
20 of photo identification in -- in the mailing ballots as
21 well because that as acknowledged by Senator Van de
22 Putte is probably where the majority of voter fraud
23 happens in this state is in ballot by mail, and so I
24 think it would be a good thing to look to expand this.
25 A simple requirement that would guarantee that people



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1 who vote are having their -- their -- their right to
2 vote not canceled out by someone who isn't eligible to
3 vote. Thank you.

4 CHAIRMAN DUNCAN: Thank you. Members, any
5 questions?

6 SENATOR VAN DE PUTTE: I do.

7 CHAIRMAN DUNCAN: Senator Van De Putte.

8 SENATOR VAN DE PUTTE: Did I hear you
9 correctly? You said that you knew of a case where there
10 was a bus load of people that were taken and they were
11 issued -- as they got off the bus, they gave them voter
12 registration cards?

13 MR. OPIELA: Yes.

14 SENATOR VAN DE PUTTE: And what county was
15 this?

16 MR. OPIELA: That was in Duval County.

17 SENATOR VAN DE PUTTE: Was it in a recent
18 election?

19 MR. OPIELA: I believe it was in the early
20 1990s.

21 SENATOR VAN DE PUTTE: And do you know
22 that -- You said you knew of the case. Was -- Was there
23 an investigation done?

24 MR. OPIELA: I don't know whether there
25 was an investigation done. I know that just recently



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1 the new Attorney General has obtained convictions of
2 people in counties neighboring Duval County, and I know
3 maybe on one case where a lady had -- had voted for
4 someone who is -- who is dead and --

5 SENATOR VAN DE PUTTE: What --

6 MR. OPIELA: -- and the person was
7 convicted.

8 SENATOR VAN DE PUTTE: What I'm asking is
9 if you could supply us with the specifics because when
10 we have asked the Attorney General's office and when
11 we've asked the Secretary of States office, they have
12 not given us any information of complaints that were
13 made or investigation. We've asked for -- Of course,
14 there's been no convictions, but it's very alarming for
15 us to hear that you have personal knowledge of this.

16 MR. OPIELA: I didn't personally see this
17 -- I live in a county about two hours --

18 SENATOR VAN DE PUTTE: But you testified
19 to it.

20 MR. OPIELA: Yes, about two hours north --

21 SENATOR VAN DE PUTTE: But you were
22 ascertaining by your -- your testimony --

23 MR. OPIELA: Yes, and I have -- I do know
24 of it, and I will put you in touch with the gentleman
25 that --



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1 SENATOR VAN DE PUTTE: If you could
2 provide us with documentation, I think that would --

3 MR. OPIELA: I'll be more than happy to
4 try and get that to you. Thank you.

5 CHAIRMAN DUNCAN: All right. Any other
6 questions? All right. The next witness is Dina
7 Perkins.

8 MS. PERKINS: Hello. My name is Dina
9 Perkins, and I am testifying on behalf of myself. I'm a
10 graduate student at UT in special works, and I work at a
11 local nonprofit in town. We -- The majority of clients
12 that I see are zero to 50 percent of the Federal poverty
13 level. Our program assists these clients with health
14 and rent, utilities, if they've have some kind of
15 emergency where they can't pay their bills.

16 I'm concerned about this bill because most
17 of the clients that I see don't have the extra money to
18 spend to get these documents. They do well to pay their
19 bills each month, and -- and as I said, one of the
20 programs that I work in is helps with utilities, and I
21 see a lot of clients that live with several other family
22 members, so the bill is not in their name. But they're
23 still paying on these utilities, and in order to get
24 these utilities in their name, it costs a \$200 deposit,
25 and they just do not have the money to do that.



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1 So I'm -- I'm here to testify against this
2 because I think it would hurt them as vulnerable members
3 of our society. Thank you.

4 CHAIRMAN DUNCAN: Two things. One to
5 register, I think they have to have a certain sort of
6 ID, and, No. 2, as far as getting the ID under this
7 bill, it's my understanding in reading it that the State
8 of Texas will provide those IDs for no cost.

9 MS. PERKINS: Well, as I understood it,
10 there's additional like birth certificates if they don't
11 have that; is that correct?

12 CHAIRMAN DUNCAN: The -- As far as getting
13 the ID, I'm sure there's some requirement that you have
14 to have some proof, but I think there are -- there's a
15 litany of items that can be provided as proof which I
16 think is designed to capture the -- the issue of
17 opportunity to be able to get an ID --

18 MS. PERKINS: Well --

19 CHAIRMAN DUNCAN: -- to verify
20 identification.

21 MS. PERKINS: Most of my clients that I
22 work with don't really have the time to try and gather
23 all of these documents and get all of this either
24 because they're working, and they're using the bus and
25 they're picking their kids up from daycare or school or



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1 just all around it's a burden on them.

2 CHAIRMAN DUNCAN: Thank you very much.

3 Next witness is Sonia Santana.

4 MS. SANTANA: Hello, chairman and
5 senators. My name is Sonia Santana. I'm here
6 testifying today on behalf of ACLU, and we oppose HB
7 218. I want to address two points that have been
8 brought up recently, one by the gentleman that was
9 sitting here saying that even if one voted cast illegal,
10 that a -- you know, that it cancels another legal vote.
11 What about the voters that are going to have to cast
12 provisional ballots under this bill because you are
13 disenfranchising them as well.

14 In the 2004 election, and these numbers
15 are available from the SOS website, 36,000 ballots were
16 cast provisionally and only 7700 counted. That's a one
17 in five chance. Under this bill, those people that come
18 to the polls without that ID, and if we have not done
19 our job in educating them in advance, they're going to
20 have to pass a provisional ballot, and it is dependent
21 upon them to come back with that identification to
22 correct their ballot in a very short period of time, and
23 if they don't have that documentation to bring that
24 documentation back, their birth certificate or whatever
25 that they need to request, their ballot is not going to



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1 count. So, again, you have the potential of maybe one
2 voter whose ballot might not be counted versus the
3 hundreds of thousands of voters whose ballots might not
4 be counted that you are forcing to vote provisionally.

5 I also wanted to address the issue of
6 cost. You said that the state is going to provide free
7 ID. Well, that's true that is in the bill, however,
8 there's additional cost in obtaining that ID. A person
9 has to travel to the DPS office Monday through Friday.
10 Those offices are open Monday through Friday 8 to 5.
11 They may have to take off of work. They may have to
12 have a relative drive them there. They have to provide
13 copies of identification to get that ID. So it's not
14 really free to them if it requires additional cost and
15 time and additional cost in duplicating or finding these
16 documents.

17 So our position is -- is that this bill
18 goes way too far in disenfranchising potentially
19 hundreds of thousands of voters that have a legal right
20 to vote, and the people that say, well, you have to have
21 an ID to get on a plane, to rent a video, that's not
22 something people have to do to be a citizen. That's a
23 luxury. This is something that they do as a
24 constitutional right, their right to vote. Thank you.

25 CHAIRMAN DUNCAN: Thank you, Ms. Santana.



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1 Any questions? Chair hears none. Mr. Courage -- And
2 while -- before you begin, Rebecca Forest, why don't you
3 make your way up to the table as well? And go ahead,
4 Mr. Courage.

5 MR. COURAGE: Thank you, Mr. Chairman,
6 members of the committee. My name's John Courage. I'm
7 chairman of the True Courage Action Network. I'm here
8 to testify today in opposition to the substitute for
9 218. I'm talking not only as a member of this
10 organization, but also as a teacher. I've been a
11 teacher for 16 years, and I know that it is very
12 difficult oftentimes to express information to students
13 as well as to many of our citizens when it comes to
14 changes that affect their lives, changes that may happen
15 because of this bill. There are probably a lot of
16 unintended consequences that haven't been considered
17 when it comes to thinking about the new identification
18 forms that are going to be required of people when they
19 go to vote.

20 A lot of people are already intimidated
21 when they go to vote if they're first time voters, if
22 they're senior citizens, if they're new citizens going
23 through the process for the first time, and the new
24 requirements that are being put out really put, I think,
25 a lot of people at risk of deciding I'm just going to



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1 stay home because I don't know what all of the new
2 requirements are, and we can't afford to let that happen
3 in Texas.

4 I think that if we look back at the CHIPS
5 program and the unintended consequences that came from
6 the new regulations of the CHIP program, which really
7 have alienated hundreds of thousands of children in
8 Texas, what could be the repercussions of this bill
9 coming out and alienating hundreds of thousands of
10 senior citizens, minority voters and the poor. Without
11 proper education, many of these people may be
12 discouraged from going to vote. And I see no kind of --
13 no expenses put into the bill to help educate the
14 public. Certainly, we can't expect a few lines in a
15 letter from the Secretary of State to explain all of the
16 different IDs that are going to be available for people
17 to use. We don't expect everybody to even receive it.

18 What we're looking at today is a problem
19 that is going to multiply when people start trying to
20 figure out what do I need to take to vote? Where can I
21 get it, and how can I get it? I think that we need to
22 understand that we're creating a much larger program
23 that is going to cost a lot more to educate people if
24 we're going to go ahead and add this to the current laws
25 that we have today.



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1 And so as an educator, I would encourage
2 us to either put about 4 or \$5 million into the budget
3 to go ahead and educate people or to scratch it
4 completely because without understanding the
5 ramifications, you're simply suppressing the vote. A
6 lot of people will be intimidated, and they simply won't
7 show up, and I don't believe that the legacy of this
8 committee and the legacy of this legislature is to
9 alienate and disenfranchise hundreds of thousands of
10 Texas voters. Thank you.

11 CHAIRMAN DUNCAN: Thank you, Mr. Courage.
12 Any questions? All right. Rebecca Forest.

13 MS. FOREST: My name is Rebecca Forest.
14 I'm an advisory committee member of the Immigration
15 Reform Coalition of Texas. Our cosigning organizations
16 are Citizens for Immigration Reform Dallas, Texas
17 Immigration Reform Houston, Austin Townhall
18 Conservatives Reform Committee.

19 The Constitutionality guaranteed right of
20 the US citizens to vote is no longer guaranteed if the
21 citizens vote is canceled by a fraudulent vote. When
22 fraudulent votes are cast, the legitimate votes of
23 citizens are diluted. This is the response each and
24 everyone of you should --

25 CHAIRMAN DUNCAN: Let me interrupt. We'd



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1 kind of like for you to talk to us and give us your
2 written testimony because we only have --

3 MS. FOREST: I can give you the written
4 testimony.

5 CHAIRMAN DUNCAN: Sure. Tell us -- Tell
6 us what is your --

7 MS. FOREST: Okay. Basically our stance
8 is that even in Mexico, voters are required to give a
9 form of ID that is -- has a voter ID and biometric
10 identifiers. If a poor country, poorer than the United
11 States, can do that, then we would request that the same
12 policies be followed here in the United States, and,
13 also, there are other countries that require photo IDs
14 as well.

15 Well, we have to have some safeguards in
16 place to ensure that citizens are voting. That is a
17 right reserved to citizens only, and so that's our major
18 concern. There are instances especially up in the
19 northern states where middle easterners are voting
20 illegally. So it's not only in Latin American states,
21 but also along our northern borders.

22 CHAIRMAN DUNCAN: Thank you very much. We
23 listened a little better when you were talking to us
24 than when you were reading.

25 MS. FOREST: I know. You fall asleep. I



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1 have this written form, and I have a copy for each one
2 of you.

3 CHAIRMAN DUNCAN: Okay. Thank you very
4 much. Members, any questions of the witness? All
5 right. Thank you. Is there anyone else who would wish
6 to testify for, on or against House Bill 218 or the
7 proposed committee substitute? All right. The chair
8 hears none. Public testimony is closed.

9 SENATOR VAN DE PUTTE: Did we have
10 somebody here from the Secretary of State --

11 CHAIRMAN DUNCAN: We do.

12 SENATOR VAN DE PUTTE: -- or the DPS?
13 What I'd like to see is how this is going to work in
14 conjunction with Real ID or do we have the Secretary of
15 State's office --

16 CHAIRMAN DUNCAN: Ann McGeehan -- The
17 public testimony's closed, but we can invite a resource
18 witness --

19 SENATOR VAN DE PUTTE: Just resource
20 witness to ask a question.

21 CHAIRMAN DUNCAN: Ms. McGeehan?

22 MS. MCGEEHAN: Hi. Ann McGeehan with the
23 Secretary of State's office.

24 SENATOR VAN DE PUTTE: My question's -- a
25 couple them. When election officials, either the



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1 precinct judges or the county officials, if they have
2 any questions or they suspect anything, is there a
3 formalized process where they can contact the Secretary
4 of State's office?

5 MS. MCGEEHAN: There are a couple of
6 processes that are provided in the election code. Any
7 citizen can submit a concern or any evidence they have
8 of a voting election code violation to the Secretary of
9 State's office.

10 SENATOR VAN DE PUTTE: So it doesn't have
11 to be -- It can be an individual citizen that can bring
12 a complaint or --

13 MS. MCGEEHAN: Yes.

14 SENATOR VAN DE PUTTE: -- if they
15 suspect -- And then what does the Secretary of State's
16 office do?

17 MS. MCGEEHAN: We review that complaint,
18 and if the complaint does allege a criminal violation of
19 any kind, then we make a referral to the Attorney
20 General's office and then they have the authority to
21 investigate and prosecute.

22 SENATOR VAN DE PUTTE: How many complaints
23 have you had about voter impersonation?

24 MS. MCGEEHAN: We have not had any. This
25 question came up when this bill was debated in the



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1 House. Nothing's been filed with our office in the last
2 four years on that issue precisely.

3 SENATOR VAN DE PUTTE: You had no
4 complaints about voter impersonation?

5 MS. MCGEEHAN: No.

6 SENATOR VAN DE PUTTE: And -- And, I
7 guess, my question is -- is the -- the Real ID Act would
8 require lots of verification for how we do driver's
9 license now, but it's not a universal ID card. In other
10 words, citizen wouldn't be required to get it. It's
11 just the -- the security of the driver's license itself,
12 and I'm not sure how that would work in conjunction with
13 this, but thank you for your testimony today.

14 SENATOR LUCIO: Mr. Chairman?

15 CHAIRMAN DUNCAN: Senator Lucio?

16 SENATOR LUCIO: Is there anything in the
17 law that requires an election judge to -- to file a
18 possibility of voter -- voter fraud? And, if so,
19 what -- what kinds of penalty would that have?

20 MS. MCGEEHAN: The -- there's -- In
21 currently the election code, you know, an election
22 judge -- they can't let a person vote who's not eligible
23 to vote, and, similarly, they can't prevent someone
24 who's eligible for voting from voting. There's no -- I
25 think the kind of process you are thinking about is if



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1 an election judge observed misconduct. There's no
2 process --

3 SENATOR LUCIO: If he or she -- If he or
4 she knows that that person pretends somebody he or she
5 is not --

6 MS. MCGEEHAN: Right.

7 SENATOR LUCIO: -- and that election judge
8 fails to document that and turn it in, is there anything
9 in the law that holds that election judge accountable
10 legally?

11 MS. MCGEEHAN: No.

12 SENATOR LUCIO: Thank you.

13 CHAIRMAN DUNCAN: Senator Ellis?

14 SENATOR ELLIS: What is the penalty under
15 current law for somebody impersonating someone else to
16 vote?

17 MS. MCGEEHAN: That would be illegal
18 voting. I'd have to look it up here. Sorry.

19 SENATOR ELLIS: That's all right. Do you
20 know? Senator Fraser, do you know?

21 MS. MCGEEHAN: It is a felony of the third
22 degree unless the person is convicted of an attempt. If
23 it's an attempt, it's a Class A misdemeanor. That's
24 64012 of the election code.

25 SENATOR ELLIS: I was just wondering how



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1 many years, if you or your colleague know. How many
2 years would you get in jail if you actually do it and
3 not attempt, but if you commit voter fraud, third degree
4 felony?

5 MS. MCGEEHAN: I'm --

6 SENATOR ELLIS: 20 years? That's all
7 right. And you are --

8 MS. MCGEEHAN: I don't --

9 SENATOR ELLIS: That's all right.

10 MS. MCGEEHAN: Let me look.

11 SENATOR ELLIS: We'll find out. It will
12 be good to know. Hopefully, it just won't be getting on
13 the floor. I want to know by then.

14 MS. MCGEEHAN: I think Elizabeth Winn
15 found it.

16 CHAIRMAN DUNCAN: Okay. Let the record
17 reflect Elizabeth Winn from the Secretary of State's
18 office is answering this question.

19 MS. WINN: Elizabeth Hanshaw Winn,
20 Secretary of State's office. We just were lucky enough
21 to have a footnote below one of the sections in the code
22 that the drafter of this book gives us, and it says in
23 there a third degree felony is imprisonment in the
24 institutional division of the TDCJ for any term of not
25 more than 10 years or less than 2 years.



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1 SENATOR ELLIS: 2 to 10.

2 MS. WINN: And then a fine, and then a
3 Class A misdemeanor, a fine not to exceed 4,000 or
4 confinement in jail for a term not to exceed one year or
5 both, such fine and confinement.

6 SENATOR ELLIS: Because usually around
7 here if there is a problem, there's a crime being
8 committed, usually folks want to enhance as opposed to
9 changing the entire voting apparatus to solve a problem
10 we haven't proven. In your office knowing this bill was
11 coming, have you all surveyed to ask about voter
12 fraud -- voter fraud -- someone impersonating someone
13 else to vote?

14 MS. WINN: We haven't done any surveys
15 like that.

16 SENATOR ELLIS: So nobody even asked you
17 all to help make that case on this bill, just -- just
18 use a resource.

19 MS. WINN: Correct.

20 SENATOR ELLIS: Okay. Senator --

21 CHAIRMAN DUNCAN: (Inaudible).

22 SENATOR ELLIS: No. But that's why they
23 do the survey. Usually somebody's trying to slip
24 something through here, to go get somebody in the state
25 government to go out and get do a survey.



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1 SENATOR FRASER: I don't think you want to
2 call this a slip.

3 SENATOR ELLIS: I hope my (audible) come
4 see the light of day as they are just a slip -- a slip
5 or somebody drop off.

6 CHAIRMAN DUNCAN: Well, that's what the
7 process is all about. You got the votes. You got --

8 SENATOR ELLIS: Third degree felony, 2 or
9 10 years, up to \$10,000, maximum probation, 10 years.

10 Do you have -- In your office have you all
11 discussed any policy initiatives to try and deal with
12 this perceived problem that's going on out there that
13 nobody has reported? Are there other ways we could do
14 this? More resources, more precinct judges so they
15 could start hunts to go look for voter fraud? I mean,
16 short of this bill, any other ideas of people just
17 typing up this bill and that's it?

18 MS. MCGEEHAN: The focus of our office the
19 last couple of years have been the Help American Vote
20 Act and some of the changes that have been associated
21 with that. So depending on what comes out of session,
22 we may have to change our focus to that.

23 SENATOR ELLIS: So you all have been
24 focusing on helping Americans to vote, not keeping them
25 from voting. I see. Okay. Thank you.



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1 CHAIRMAN DUNCAN: All right. Is there any
2 other question -- Are there any other questions? Okay.
3 Members, this bill will be left pending until -- we're
4 going to try to take a vote on this later today,
5 probably later after session. So we'll move this to
6 after session today.

7 All right. Public testimony is closed.
8 The bill will be left pending until after session today.

9 (End of audio transcription.)
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HB 218 Public Hearing

April 30, 2007

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HB 218 - VOTER I.D.

MAY 15, 2007

Transcribed April 27, 2012

By Rhonda Howard, CSR



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JA_008296

1 THE PRESIDENT: TS-H493(b)493 B.

2 Chair recognizes Senator Fraser for a
3 motion to suspend (inaudible) order of business and
4 take up and consider Committee Substitute for House
5 Bill 218.

6 SENATOR FRASER: Mr. President,
7 Members, I would move to suspend the regular order
8 of business and take up Senate House Bill 218.

9 Senate Bill 218 is the photo I.D. bill --
10 bill that would protect the integrity of voting.
11 The bill simply clarifies that someone is voting
12 that they would show photo I.D. in order to vote. I
13 would move suspension of the order of business.

14 THE PRESIDENT: Questions of the
15 author.

16 SENATOR SHAPLEIGH: Can I ask a few
17 questions?

18 THE PRESIDENT: Senator Fraser, will
19 you yield to Senator Shapleigh.

20 SENATOR FRASER: I will.

21 SENATOR SHAPLEIGH: Senator, you
22 walked through this very slowly. Can you go back
23 through exactly what this bill is doing, how it came
24 over from the House and what is your goal in House
25 Bill 218.



1 SENATOR FRASER: Senator Shapleigh,
2 the -- the issue, as you know, has been out there
3 for a while. It was a bill that passed the House
4 and came over. And this is -- this is not an -- a
5 unique issue. Photo I.D.s are being used in a host
6 of countries across the -- the world including
7 Canada, Mexico, France, Germany, Italy, Poland,
8 Britain, India and South Africa, and there's about
9 half the U.S. states. And it's clearly just an
10 issue to give the ability of someone's voting
11 that -- it's a basic right. They just have to
12 identify who they are.

13 SENATOR SHAPLEIGH: Now, let's go
14 into the history of this issue in this country. And
15 I want to go back into the 1940s and all of the
16 history around forwarding the right to vote and ask
17 you how this fits into that history.

18 Recently we had at the national level
19 really as a strategy developed by Texans, I'm
20 talking about Karl Rove, a strategy, in my view,
21 from suppress the vote. And that was built around
22 this issue -- so-called issue of voter fraud, which
23 has been launched in various states. And this is
24 the solution to voter fraud, which is to require a
25 photo I.D. or some I.D.



1 Can you tell us how many cases nationally
2 we've had on voter fraud issues in the country?

3 SENATOR FRASER: Ask -- ask the
4 question again. You said the number of states?

5 SENATOR SHAPLEIGH: No. Here's --
6 here's what I want to know. This theme is now a
7 national theme. And it's launched, frankly, by Karl
8 Rove. And basically what this one is is a
9 suppression idea. The idea is to suppress the vote,
10 not guarantee the vote. And the premise of it is is
11 that you've got voter fraud going on around the
12 country and we need to step in and stop it.

13 In my own part of the country up there
14 near New Mexico, Pete Dominici wrote a letter to
15 David Iglacias, who's the United States Attorney up
16 there and said, "Are you going to bring these voter
17 fraud cases here in New Mexico?" And the answer
18 was, "Senator, we don't have any voter fraud to
19 prosecute, because we don't find any."

20 None of these cases meet the criteria for
21 federal voter fraud. So my question to you is if
22 the purpose for passing this bill is to guarantee
23 that you've got a right to go vote or guaranteeing
24 who's showing up and too many people are violating
25 that with fraud, how many cases of voter fraud do we



1 have in this country?

2 SENATOR FRASER: Well, Senator,
3 you're making a lot of assumptions here. You're
4 the -- make -- the one laying out the premise. I
5 don't believe that I laid out anything having to do
6 with Karl Rove and all these others things.

7 My -- my premise is very simple is that if
8 someone's going to vote they should be able to prove
9 who they are.

10 SENATOR SHAPLEIGH: Well, I'm asking
11 you what's the reason for this?

12 In my view, the way this is articulated in
13 any state is we're going to combat this rising issue
14 of voter fraud. How many cases are pending in this
15 state, how many are being investigated by the
16 Secretary of State or Attorney General on voter
17 fraud today? How many?

18 SENATOR FRASER: You're going to --
19 if the -- you're making the issue on the voter
20 fraud. And I -- you know, I -- I'm not making that
21 issue.

22 I'm very simply saying that if someone's
23 going to vote they should have the response --
24 responsibility to show who they are. It's a very --
25 it's a pretty simplistic issue is that you walk in,



1 you're going to vote, you show them who you are,
2 prove who you are, you vote.

3 SENATOR SHAPLEIGH: Well, let me give
4 you the answer since you didn't get to it: Zero.
5 There's not one pending case. There is no voter
6 fraud that's a national --

7 SENATOR FRASER: Okay. You are
8 asking me a question --

9 SENATOR SHAPLEIGH: -- nor is it
10 happening here in Texas. I'm going to ask you
11 another question, but I want to lay the basis for
12 why this bill is not needed and what the real intent
13 is behind this bill.

14 The answer nationally is that in all 50
15 states there are 89 pending cases. So the answer is
16 there is no voter fraud. It is not a national
17 issue. And rising to make this an issue in the
18 State of Texas, in my view, is really another basic
19 goal which is voter suppression.

20 So let me ask you this, when you look at
21 the guts of this bill and you look at the costs
22 involved in what came over from the House, exactly
23 how does this work?

24 Walk us through how you get this
25 identification, what are the costs and how a



1 person's going to be affected in Texas by this bill.

2 SENATOR FRASER: Okay. We -- are we
3 off the questions about fraud? Because as you were
4 talking, I was given multiple issues of voter fraud
5 issues in Howard County in a voter fraud plot. But
6 do you want to now talk about how the -- how this
7 will be done?

8 SENATOR SHAPLEIGH: Yes, sir.

9 SENATOR FRASER: Okay. The -- the --
10 you know, the simplest way to do it would be any
11 photo identifications that someone has proving who
12 they are like a driver's license, that would be
13 sufficient or if someone does not have that, they
14 can do any two of the following in a -- in a -- a
15 polling place. If they have a utility bill, a bank
16 statement, a government check, a paycheck or a
17 government document with their name and address, any
18 official mail from a government entity, a -- a
19 certified copy of a birth certificate, U.S.
20 citizenship papers. Any of those things would show
21 that they're who they are.

22 SENATOR SHAPLEIGH: Okay. Let's look
23 at Line 14. And walk us through how those
24 provisions work. Line 14 through 17 on training.

25 SENATOR FRASER: Now, you're going to



1 have to hold a second. What page you on?

2 SENATOR SHAPLEIGH: I'm on Page 1 of
3 what's here in our billbook.

4 SENATOR FRASER: And Line 14?

5 SENATOR SHAPLEIGH: I'm on line --
6 I'm on Line 14. And the question I have for you is
7 can you tell us what Section C's about and what it
8 does?

9 SENATOR FRASER: Okay. My bill
10 doesn't -- the bill that I have is the engrossed
11 version. And on Page 1, Line 14 is Section C is
12 what you're talking about?

13 SENATOR SHAPLEIGH: Yes, sir.

14 SENATOR FRASER: The training
15 standards?

16 SENATOR SHAPLEIGH: Yes, sir.

17 SENATOR FRASER: They -- adopted
18 under Subsection A refers back, "Must include
19 provisions on acceptance and handling of
20 identification presented by the voter to an election
21 officer under Section 6301."

22 There is another reference here that says
23 that, "The type of identification that they will
24 have to have shall be posted as they walk into the
25 voter registration place, and there will be a very



1 clear poster signifying what identification is
2 acceptable."

3 SENATOR SHAPLEIGH: Okay. But I'm
4 talking about the training. "The training standards
5 must include provisions on the acceptance and
6 handling of the identification presented."

7 Who's going to be doing this training and
8 how does it work and who's going to pay for the
9 training? Is this a mandate to the counties?

10 SENATOR FRASER: Well, the -- the
11 elections judge for the State of Texas is Attorney
12 General. Attorney General -- I mean, I'm sorry, the
13 Secretary of State.

14 Secretary of State would set up the
15 standards for the counties. And who's running the
16 election then would transfer making sure whoever's
17 working the polling place would have that
18 information.

19 SENATOR SHAPLEIGH: All right. Let's
20 look at -- let me ask you some questions about
21 Section 2 in this bill.

22 "Each election clerk shall complete the
23 part of the training program relating to the
24 acceptance and handling of the identification
25 presented by a voter to an election officer under



1 Section 63.001."

2 How does that work?

3 SENATOR FRASER: Ask your question
4 again.

5 SENATOR SHAPLEIGH: I am asking you a
6 question with respect to Line 26.

7 SENATOR FRASER: Okay.

8 SENATOR SHAPLEIGH: Going down to
9 Line 29.

10 My question is this, it says, "Each
11 election clerk shall complete the part of the
12 training program relating to the acceptance and
13 handling of the identification presented by a voter
14 to the election officer under Section 63.001."

15 What does that require them to do?

16 SENATOR FRASER: Senator, I think,
17 you know, this -- this is not anything new that an
18 election official -- all election officials are
19 trained for the running of elections and things that
20 they would do. And this is just one more
21 responsibility. It would be posted on the front
22 door. It's just -- it's just training they would
23 have under normal election procedures. We -- we do
24 this all the time, and they would be trained. They
25 would give them -- they would explain what is



11

1 acceptable identification, and they would show the
2 identification. It's a -- it's -- it's not any
3 different than when you go to the grocery store to
4 cash your check, that --

5 SENATOR PATRICK: President.

6 Mr. President. Point of the order, this is not a
7 debatable issue.

8 THE PRESIDENT: Senator Patrick,
9 could you restate your point of order?

10 SENATOR PATRICK: This is not a
11 debatable issue suspending of the rules. Make a
12 motion. This is exactly what occurred to me last
13 week in my discussion with Senator Ellis. Senator
14 Carona called a point of order on me, not debatable.

15 THE PRESIDENT: Sustained.

16 SENATOR VAN DE PUGH: Mr. President.

17 THE PRESIDENT: Senator Van de Putte,
18 to what point do you rise?

19 SENATOR VAN DE PUTTE: Need to rise
20 to let the Chair know my intention to speak against
21 passage of this bill at this time.

22 THE PRESIDENT: Ma'am, we're on a
23 motion. It's not debatable at this time.

24 SENATOR VAN DE PUTTE: Mr. President,
25 parliamentary inquiry.



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JA_008306

12

1 THE PRESIDENT: State your inquiry.

2 SENATOR VAN DE PUTTE: When is
3 notification of a filibuster going to be recognized
4 by the Chair?

5 THE PRESIDENT: On a debatable
6 motion, which would be either on second reading
7 going to third reading or --

8 SENATOR VAN DE PUTTE: Thank you,
9 Mr. President.

10 THE PRESIDENT: Thank you.

11 Please --

12 SENATOR FRASER: Now move to suspend
13 regular order of business with Substitute to House
14 Bill 218.

15 THE PRESIDENT: Heard the motion by
16 Senator Fraser. The secretary will call the role.

17 THE SECRETARY: Averitt, Brimer,
18 Carona, Deuell, Duncan, Ellis, Eltife, Estes,
19 Fraser, Gallegos, Harris, Hegar, Hegar, Hinojosa,
20 Jackson, Janek, Lucio, Nelson, Nichols, Ogden,
21 Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van De
22 Putte, Watson, Wentworth, West, Whitmire, Whitmire,
23 Williams, Zaffirini, Hegar, Uresti. I'm not --
24 (inaudible). Whitmire.

25 THE PRESIDENT: There being 19 ayes



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1 and nine naves, the rules are suspended.

2 Chair lays out on second reading the
3 Committee Substitute House Bill 218. The secretary
4 will read the caption.

5 THE SECRETARY: Committee Substitute
6 House Bill 218 relating to requiring a voter to
7 present proof of identification.

8 THE PRESIDENT: Senator Van De Putte,
9 do you intend to read on -- going to second reading
10 or going on third reading?

11 SENATOR VAN DE PUTTE: Wherever I can
12 stop this bill, Mr. President.

13 THE PRESIDENT: The Chair recognizes
14 Senator Fraser for a motion.

15 SENATOR FRASER: Members, I'd move
16 passage of Committee Substitute for House Bill 218
17 to engrossment.

18 THE PRESIDENT: The Chair recognizes
19 Senator Van De Putte. For what -- for what purpose
20 do you rise, ma'am?

21 SENATOR VAN DE PUTTE: Thank you,
22 Mr. President. To notify the President of my
23 intention to talk against this bill.

24 THE PRESIDENT: You're recognized.

25 SENATOR VAN DE PUTTE: Mr. President,



1 part -- part -- parliamentary inquiry,

2 Mr. President?

3 SENATOR WEST: Mr. President,
4 parliamentary inquiry. Parliamentary inquiry.

5 THE PRESIDENT: Senator West, state
6 your inquiry.

7 SENATOR WEST: In terms of -- it
8 appears as though the machine was broken or
9 something. It's my understanding that -- consulting
10 with Senator Whitmire that he voted against
11 suspension, and that would be ten naves -- that
12 would have been ten -- ten naves and 19 ayes, which
13 would mean that the rules would not suspend.

14 THE PRESIDENT: The rules were
15 suspended. Senator Whitmire was not here. He did
16 not vote. We called his name several times.

17 SENATOR WEST: He was on -- he was on
18 the floor, Mr. President.

19 THE PRESIDENT: He was not. We
20 called his name several times. He did not vote.
21 Senator HegarHegar was on the floor. If Senator
22 HegarHegar would like to vote, Senator Whitmire can
23 vote.

24 SENATOR WEST: No. I'll leave that
25 Senator -- I'll leave that to the -- Dean on that



15

1 (inaudible).

2 THE PRESIDENT: We called his name.

3 We called his name.

4 SENATOR WHITMIRE: I voted no.

5 THE PRESIDENT: You did not vote.

6 SENATOR WHITMIRE: I was right there.

7 THE PRESIDENT: Dean, we called your
8 name several times. You were not here. In fact, I
9 waited for you to vote.

10 SENATOR WHITMIRE: We've been
11 operating --

12 THE PRESIDENT: Members, we've had
13 19 -- I gaveled the vote. I gaveled the vote. We
14 had 19 ayes and nine naves.

15 SENATOR SHAPLEIGH: Parliamentary
16 inquiry, Mr. President.

17 THE PRESIDENT: State your inquiry,
18 Mr. Shapleigh.

19 SENATOR SHAPLEIGH: What's the
20 procedure for classifying who was on the floor at
21 the time of the vote?

22 UNIDENTIFIED SPEAKER: (Inaudible).

23 THE PRESIDENT: Senator Shapleigh, we
24 followed the procedure we traditionally follow of
25 role call vote. The secretary looked for the



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1 Members.

2 UNIDENTIFIED SPEAKER: That's not --

3 THE PRESIDENT: When it came to --
4 she called Senator Hegar's name several times; there
5 was no response. She called Senator Whitmire's name
6 several times; there was no response. I gaveled the
7 vote. Nineteen -- we have 19 ayes and nine nays.

8 SENATOR SHAPLEIGH: What you're
9 telling me is there is no verification procedure in
10 the rules? There's no way to appeal the fact that
11 John Whitmire was on the floor and bring that fact
12 before the body?

13 UNIDENTIFIED SPEAKER: (Inaudible).

14 SENATOR SHAPLEIGH: Parliamentary
15 inquiry. If we were to get the video and establish
16 that John Whitmire was on the floor and circulating,
17 talking to each one of us with respect to this
18 issue, would that not establish that he was on the
19 floor for the purposes of counting his vote?

20 SENATOR WHITMIRE: You all don't have
21 to win this this election. I'm working the goddamn
22 floor.

23 UNIDENTIFIED SPEAKER: (Inaudible).

24 THE PRESIDENT: Members, I'm going to
25 get your -- Members -- Dean, sit down. Members, sit



1 down. Senator Shapiro.

2 Members, it's not going to make any
3 difference, but I'll be glad to do another role call
4 vote. We -- the secretary looked, she called.
5 Dean --

6 SENATOR WHITMIRE: Yes, sir.

7 THE PRESIDENT: -- you're going to
8 compose yourself or you're going to leave the floor.

9 SENATOR WHITMIRE: (Inaudible).

10 THE PRESIDENT: The -- we called a
11 role call vote. The secretary called for the
12 Members. She called your name. I waited an --
13 extra long, because I thought you were on the floor.
14 No one said -- Senator HegarHegar was absent. But
15 we're going to -- in courtesy of the Members, we're
16 going to go over the role call again.

17 SENATOR FRASER: Mr. President, would
18 it be proper for me, because I'm on the prevailing
19 side, to withdraw that motion? And would that be
20 the proper way to do this?

21 THE PRESIDENT: Dean, what we're
22 going to do is we're going to do a verification and
23 we're going to call the role again. And I think
24 that should satisfy everyone on the floor. The
25 secretary will call the role.



18

1 SENATOR GALLEGOS: Mr. President.

2 THE PRESIDENT: Senator Gallegos.

3 SENATOR GALLEGOS: Parliamentary
4 inquiry.

5 THE PRESIDENT: For what purpose?

6 SENATOR GALLEGOS: Senator HegarHegar
7 is not on the floor and there's a reason for that.
8 He's ill.

9 Now, my inquiry is if -- if -- if one of
10 our colleagues is ill but is here or is in town,
11 should he or she not deserve the same courtesy you
12 allowed me, at least be told that 218 is going to
13 be -- is -- is -- you're going to put it out, you're
14 going to bring it out?

15 THE PRESIDENT: Senator, you haven't
16 made a parliamentary inquiry. You're asking a
17 question.

18 The answer is Senator Uresti did not come,
19 he did not talk to me nor my staff. This bill has
20 been on intent for a week or two. The -- the
21 question -- we're in the middle of a vote on
22 suspension. The secretary will call the role.

23 THE SECRETARY: Averitt --

24 UNIDENTIFIED SPEAKER: Parliamentary
25 inquiry, Mr. President. Does the verification take



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1 place after the vote or before?

2 THE PRESIDENT: Senator, we're not
3 like the House. The -- a verification occurs while
4 we vote. But in respect to the Members, I'm going
5 to ask the secretary to call the role again.

6 And we're going to reestablish -- we're
7 going to re-verify the vote. Is that all right with
8 you?

9 SENATOR WHITMIRE: If that's under
10 the State rules. But unlike the House, I'd like us
11 to be under a bed of rules. And so my question is
12 under the rules that we operate under the
13 verification will take place after the vote, or are
14 you calling role?

15 THE PRESIDENT: No. For the third
16 time, it takes place while the vote is occurring.
17 The secretary called the role before. She looked
18 around the room. She called the Members' names and
19 -- there were 19 ayes and nine nays. Having
20 said that, we're in the middle of a vote.

21 The motion on the floor is to suspend the
22 rules. The secretary will call the role.

23 THE SECRETARY: Averitt, Brimer,
24 Carona, Deuell, Duncan, Ellis, Eltife, Estes,
25 Fraser, Gallegos, Harris, Hegar, Hinojosa, Jackson,



20

1 Janek, Lucio, Nelson, Nichols, Ogden, Patrick,
2 Seliger, Shapiro, Shapleigh, Uresti, Van De Putte,
3 Watson, Wentworth, West, Whitmire, Williams,
4 Zaffirini.

5 THE PRESIDENT: There being 20 ayes
6 and 11 naves, the motion to suspend fails at the
7 present time.

8 (End)



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2 IN THE COUNTY OF TRAVIS)

3 STATE OF TEXAS)

4 I, Rhonda Howard, Certified Shorthand
5 Reporter in and for the State of Texas, hereby
6 certify to the following:

7 That the CD entitled, "HB 219 - Voter
8 I.D., 5/15/2007," was transcribed at the request of
9 Anne Wilson, 209 West 14th Street, 8th Floor,
10 Attorney General's Office, Austin, Texas 78701, and
11 the amount due is \$_____.

12 That the aforementioned CD was transcribed
13 to the best of my ability to hear and understand the
14 CD;

15 That the transcript was submitted by
16 E-trans on April , 2012, to Anne Wilson, 209 West
17 14th Street, 8th Floor, Attorney Generals' Office,
18 Austin, Texas 78701;

19 I further certify that I am neither
20 counsel for, related to, nor employed by any of the
21 parties or attorneys in the action in which this
22 proceeding was taken, and further that I am not
23 financially or otherwise interested in the outcome
24 of the action.
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1 Certified to by me, this 27th day of
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3
4 *Rhonda Howard*



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SENATE JOURNAL

EIGHTIETH LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

SIXTY-SECOND DAY

(Tuesday, May 15, 2007)

The Senate met at 11:25 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Jackson, Janek, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

The President announced that a quorum of the Senate was present.

The Reverend Neal Terwilliger, First Baptist Church, Taylor, offered the invocation as follows:

"Enter into His gates with thanksgiving and into His courts with praise: be thankful unto Him, and bless His name. For the Lord is good; His mercy is everlasting; and His truth endureth to all generations." (Psalms 100:4-5) Eternal God, we come before You today with praise and with thankful hearts. We ask Your hand of blessing to be upon this Senate today. May You give wisdom and guidance to all in attendance today, that they may continue to lead this great state to be a place of love, peace, and prosperity. Allow us to dwell together in unity and like-mindedness that Your favor may continue to shine upon us. May we bless You and not forget all Your benefits to us, Your children. Eternal Father, hear our prayers, we pray. Amen.

Senator Whitmire moved that the reading of the Journal of the proceedings of yesterday be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

CO-AUTHOR OF SENATE BILL 961

On motion of Senator Shapleigh, Senator Zaffirini will be shown as Co-author of **SB 961**.

CO-AUTHORS OF SENATE BILL 1292

On motion of Senator Nelson, Senators Carona, Estes, Harris, and Lucio will be shown as Co-authors of **SB 1292**.

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CO-AUTHOR OF SENATE BILL 1764

On motion of Senator Uresti, Senator Hinojosa will be shown as Co-author of **SB 1764**.

CO-AUTHOR OF SENATE JOINT RESOLUTION 43

On motion of Senator Nelson, Senator Lucio will be shown as Co-author of **SJR 43**.

CO-SPONSORS OF HOUSE BILL 14

On motion of Senator Nelson, Senators Ellis, Gallegos, Hinojosa, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, and Zaffirini will be shown as Co-sponsors of **HB 14**.

CO-SPONSOR OF HOUSE BILL 125

On motion of Senator Van de Putte, Senator Uresti will be shown as Co-sponsor of **HB 125**.

CO-SPONSOR OF HOUSE BILL 1887

On motion of Senator Whitmire, Senator Patrick will be shown as Co-sponsor of **HB 1887**.

CO-SPONSOR OF HOUSE BILL 3900

On motion of Senator Shapiro, Senator Van de Putte will be shown as Co-sponsor of **HB 3900**.

CO-SPONSOR OF HOUSE BILL 3446

On motion of Senator Eltife, Senator Nelson will be shown as Co-sponsor of **HB 3446**.

PHYSICIAN OF THE DAY

Senator Wentworth was recognized and presented Dr. Tamara Dominguez of San Antonio as the Physician of the Day.

The Senate welcomed Dr. Dominguez and thanked her for her participation in the Physician of the Day program sponsored by the Texas Academy of Family Physicians.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER
Austin, Texas
May 15, 2007

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

SCR 73, Congratulating Eric R. Bittner for his selection as a 2007 Fellow by the John Simon Guggenheim Memorial Foundation.

SJR 20, Proposing a constitutional amendment providing for the issuance of additional general obligation bonds by the Texas Water Development Board to provide assistance to economically distressed areas.

THE HOUSE HAS CONCURRED IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

HB 421 (137 Yeas, 0 Nays, 2 Present, not voting)

HB 716 (139 Yeas, 0 Nays, 2 Present, not voting)

HB 2683 (130 Yeas, 11 Nays, 2 Present, not voting)

THE HOUSE HAS REFUSED TO CONCUR IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

HB 2261 (non-record vote)

House Conferees: Callegari - Chair/Aycock/Miles/O'Day/Taylor

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

CONCLUSION OF MORNING CALL

The President at 11:30 a.m. announced the conclusion of morning call.

COMMITTEE SUBSTITUTE HOUSE BILL 218 ON SECOND READING

Senator Fraser moved to suspend the regular order of business to take up for consideration **CSHB 218** at this time on its second reading:

CSHB 218, Relating to requiring a voter to present proof of identification.

The motion prevailed by the following vote: Yeas 19, Nays 9.

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Jackson, Janek, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Wentworth, Williams.

Nays: Ellis, Gallegos, Hinojosa, Lucio, Shapleigh, Van de Putte, Watson, West, Zaffirini.

Absent: Hegar, Uresti, Whitmire.

The bill was read second time.

VERIFICATION OF VOTE

Senator Shapleigh called for a verification of the vote by which the regular order of business was suspended for **CSHB 218**.

The President instructed the Secretary of the Senate to call the roll.

The motion to suspend the regular order of business was lost by the following vote: Yeas 20, Nays 11. (Not receiving two-thirds vote of Members present)

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Jackson, Janek, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Wentworth, Williams.

Nays: Ellis, Gallegos, Hinojosa, Lucio, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

BILLS AND RESOLUTIONS SIGNED

The President announced the signing of the following enrolled bills and resolutions in the presence of the Senate after the captions had been read:

SB 453, SB 812, SB 883, SB 913, SB 978, SB 1229, SCR 74, SCR 78, HB 862, HB 864, HB 944, HB 1260, HB 1279, HB 1332, HB 1380, HB 1396, HB 1416, HB 1449, HB 1472, HB 1491, HB 1560, HB 1716, HB 1768, HB 1780, HB 1781, HB 1784, HB 1852, HB 1853, HB 1922, HB 1947, HB 1962, HB 1987, HB 2005, HB 2018, HB 2090, HB 2127, HB 2130, HB 2176, HB 2219, HB 2618, HB 2708, HB 2727, HB 2839, HB 3437, HCR 15, HCR 30, HCR 93, HCR 94.

(Senator Brimer in Chair)

COMMITTEE SUBSTITUTE

SENATE JOINT RESOLUTION 67 ON SECOND READING

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSJR 67** at this time on its second reading:

CSSJR 67, Proposing a constitutional amendment authorizing the legislature to permit the Texas Transportation Commission, subject to legislative review and approval, to designate the area adjacent to a state highway project as a transportation finance zone and dedicating the proceeds of the state sales and use taxes imposed in a transportation finance zone to the Texas Mobility Fund for certain purposes.

The resolution was read second time.

Senator Ogden offered the following amendment to the resolution:

Floor Amendment No. 1

Amend **CSSJR 67** in SECTION 1 of the bill, in proposed Subsection (e-1), as follows:

- (1) On line 33, between "a" and "tax", insert "state"; and
- (2) On line 40, strike "shall" and insert "may".

The amendment to **CSSJR 67** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator Watson offered the following amendment to the resolution:

Floor Amendment No. 2

Amend **CSSJR 67** as follows:

In SECTION 1 of the joint resolution, in proposed Subsection (e-1), between "the" and "proceeds" (committee printing page 1, lines 32-33), insert, "incremental increase, following the initiation of construction on the highway, in the".

The amendment to **CSSJR 67** was read.

Senator Watson withdrew Floor Amendment No. 2.

On motion of Senator Ogden and by unanimous consent, the caption was amended to conform to the body of the resolution as amended.

CSSJR 67 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

BILLS SIGNED

The Presiding Officer announced the signing of the following enrolled bills in the presence of the Senate after the captions had been read:

HB 34, HB 35, HB 143, HB 208, HB 233, HB 365, HB 398, HB 402, HB 518, HB 522, HB 630, HB 632, HB 679, HB 732, HB 741.

COMMITTEE SUBSTITUTE

SENATE JOINT RESOLUTION 67 ON THIRD READING

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSJR 67** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The resolution was read third time and was passed by the following vote: Yeas 31, Nays 0.

(President in Chair)

HOUSE BILL 3564 ON SECOND READING

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3564** at this time on its second reading:

HB 3564, Relating to the transfer of Angelo State University to the Texas Tech University System.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 3564 ON THIRD READING

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3564** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE SENATE BILL 1038 ON SECOND READING

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1038** at this time on its second reading:

CSSB 1038, Relating to the regulation of certain lease agreements in manufactured home communities.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 1038 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1038** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 75 ON SECOND READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 75** at this time on its second reading:

HB 75, Relating to administrative and judicial review of certain decisions about public assistance benefits.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 75 ON THIRD READING

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 75** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 534 ON SECOND READING

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 534** at this time on its second reading:

HB 534, Relating to authorizing the lease or conveyance of certain real property owned by Amarillo College.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 534 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 534** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 585 ON SECOND READING

On motion of Senator Deuell and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 585** at this time on its second reading:

HB 585, Relating to the jurisdiction of a probate court in certain guardianship proceedings.

The bill was read second time.

Senator Deuell offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 585** by adding the following appropriately numbered section and renumbering the sections of the bill accordingly:

SECTION ____ . Section 682A, Texas Probate Code, is amended by adding Subsections (a-1) and (a-2) to read as follows:

(a-1) Notwithstanding any other law, if the applicant who files an application under Subsection (a) of this section or Section 682 of this code is a person who was appointed conservator of a disabled child for whom a court obtains jurisdiction under Section 606(k) of this code, the applicant may present to the court a written letter or certificate that meets the requirements of Section 687(a) of this code.

(a-2) If, on receipt of the letter or certificate described by Subsection (a-1) of this section, the court is able to make the findings required by Section 684 of this code, the court, notwithstanding Section 677 of this code, shall appoint the conservator as

guardian without conducting a hearing and shall, to the extent possible, preserve the terms of possession and access to the ward that applied before the court obtained jurisdiction under Section 606(k) of this code.

The amendment to **HB 585** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Deuell and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 585 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 585 ON THIRD READING

Senator Deuell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 585** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 167 ON SECOND READING

On motion of Senator Hinojosa and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 167** at this time on its second reading:

HB 167, Relating to exempting a religious bible from attachment, execution, or other seizure for the satisfaction of debts.

The bill was read second time.

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 167** (Senate committee printing) as follows:

(1) In SECTION 1, strike the recital (page 1, lines 11-12) and substitute the following:

Section 42.001, Property Code, is amended by amending Subsections (b) and (c) and adding Subsection (e) to read as follows:

(2) In SECTION 1, in amended Subsection (b), Section 42.001, Property Code (page 1, line 24), between "religion" and the period, insert the following:
that is seized by a creditor other than a lessor of real property who is exercising the lessor's contractual or statutory right to seize personal property after a tenant breaches a lease agreement for or abandons the real property

(3) In SECTION 1, following amended Subsection (c), Section 42.001, Property Code (page 1, between lines 28 and 29), insert the following:

(e) A religious bible or other book described by Subsection (b)(4) that is seized by a lessor of real property in the exercise of the lessor's contractual or statutory right to seize personal property after a tenant breaches a lease agreement for the real property or abandons the real property may not be included in the aggregate limitations prescribed by Subsection (a).

The amendment to **HB 167** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Hinojosa and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 167 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 167 ON THIRD READING

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 167** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 389 ON SECOND READING

On motion of Senator Estes and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 389** at this time on its second reading:

HB 389, Relating to the eminent domain authority of Texas Woman's University.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 389 ON THIRD READING

Senator Estes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 389** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

(Senator Brimer in Chair)

HOUSE BILL 2322 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2322** at this time on its second reading:

HB 2322, Relating to the rate of the hotel occupancy tax imposed by certain counties without a municipality.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 2322 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2322** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 1248 ON SECOND READING

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1248** at this time on its second reading:

HB 1248, Relating to the sale of mixed beverages aboard certain passenger vessels.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 1248 ON THIRD READING

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1248** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 2411 ON SECOND READING

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2411** at this time on its second reading:

HB 2411, Relating to school district depositories.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 2411 ON THIRD READING

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2411** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE HOUSE BILL 1157 ON SECOND READING

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1157** at this time on its second reading:

CSHB 1157, Relating to student services building fees at The University of Texas of the Permian Basin.

The bill was read second time.

Senator Seliger offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1157** in SECTION 1 of the bill, in added Subdivision (1), Subsection (b), Section 54.5332, Education Code (Senate committee report, page 1, line 23), by striking "\$100" and substituting "\$150".

The amendment to **CSHB 1157** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Seliger and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 1157 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

COMMITTEE SUBSTITUTE HOUSE BILL 1157 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1157** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2251 ON SECOND READING**

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2251** at this time on its second reading:

CSHB 2251, Relating to advertising by certain insurers.

The bill was read second time.

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2251**, in SECTION 1 of the bill, in added Section 541.082, Insurance Code, by striking Subsection (a) (page 1, lines 15-32) and substituting the following:

(a) In this section, "insurer" includes:

- (1) a life insurance company;
- (2) a health insurance company;
- (3) an accident insurance company;
- (4) a general casualty company;
- (5) a mutual life insurance company or other mutual insurance company;
- (6) a mutual or natural premium life insurance company;
- (7) a Lloyd's plan;
- (8) a county mutual insurance company;
- (9) a farm mutual insurance company;
- (10) a reciprocal or interinsurance exchange;
- (11) a fraternal benefit society;
- (12) a local mutual aid association;
- (13) a health maintenance organization;
- (14) a group hospital service corporation; or
- (15) a multiple employer welfare arrangement that holds a certificate of coverage under Chapter 846.

The amendment to **CSHB 2251** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Duncan and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 2251 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2251 ON THIRD READING**

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2251** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER
Austin, Texas
May 15, 2007

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

SB 61, Relating to the performance of the functions of the governing body of a political subdivision in the event of a disaster.
(Committee Substitute)

SB 903, Relating to the continuation and functions of the Office of State-Federal Relations and the administrative attachment of that agency to the office of the governor.
(Committee Substitute/Amended)

SB 908, Relating to the continuation and functions of the State Office of Risk Management.
(Committee Substitute)

SB 1031, Relating to the administration of certain assessment instruments in public schools; providing a criminal penalty.
(Committee Substitute/Amended)

THE HOUSE HAS CONCURRED IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

HB 1850 (145 Yeas, 0 Nays, 1 Present, not voting)

HB 2685 (84 Yeas, 56 Nays, 2 Present, not voting)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

HOUSE BILL 1194 ON SECOND READING

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1194** at this time on its second reading:

HB 1194, Relating to indemnification of phlebotomists performing services under contract with the Texas Department of Criminal Justice.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 1194 ON THIRD READING

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1194** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 86 ON SECOND READING

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 86** at this time on its second reading:

HB 86, Relating to tuition rebates provided by general academic teaching institutions to students who participate in the Reserve Officers' Training Corps.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 86 ON THIRD READING

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 86** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE SENATE BILL 1308 ON THIRD READING

Senator Wentworth moved to suspend the regular order of business to take up for consideration **CSSB 1308** at this time on its third reading and final passage:

CSSB 1308, Relating to the closing of a residential mortgage loan transaction and liability of certain persons involved in the appraisal process.

The motion prevailed by the following vote: Yeas 22, Nays 8.

Yeas: Averitt, Carona, Deuell, Ellis, Estes, Gallegos, Hegar, Janek, Lucio, Nelson, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Brimer, Duncan, Eltife, Harris, Hinojosa, Jackson, Nichols, Uresti.

Absent: Fraser.

The bill was read third time.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend **CSSB 1308** in SECTION 2 of the bill as follows:

(1) In added Section 1103.406, Occupations Code (committee printing page 1, line 47), immediately following "who", add ", in connection with a residential mortgage loan.".

(2) In added Section 1103.406, Occupations Code (committee printing page 1, line 55), immediately following "appraisal." add "In this section, "residential mortgage loan" means a loan or agreement to extend credit made to a person and secured by a mortgage or lien on residential real property, including a refinancing or renewal of a loan secured by residential real property."

The amendment to **CSSB 1308** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 on Third Reading.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 2 on Third Reading

Amend **CSSB 1308** (committee report) on page 1, lines 24-25 by striking "and the successors or assigns of the creditor or creditors." and inserting "who provided the residential mortgage loan funds used to close the loan."

The amendment to **CSSB 1308** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 on Third Reading.

On motion of Senator Wentworth and by unanimous consent, the caption was again amended to conform to the body of the bill as amended.

CSSB 1308 as again amended was finally passed by the following vote: Yeas 22, Nays 8.

Yeas: Averitt, Carona, Deuell, Ellis, Estes, Gallegos, Hegar, Janek, Lucio, Nelson, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Brimer, Duncan, Eltife, Harris, Hinojosa, Jackson, Nichols, Uresti.

Absent: Fraser.

HOUSE BILL 1972 ON SECOND READING

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1972** at this time on its second reading:

HB 1972, Relating to requirements applicable to an attorney ad litem representing a child in a child abuse proceeding.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 1972 ON THIRD READING

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1972** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE HOUSE BILL 195 ON SECOND READING

On motion of Senator Hegar and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 195** at this time on its second reading:

CSHB 195, Relating to the transfer of certain abandoned or forfeited property to county or municipal agencies or school districts.

The bill was read second time.

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 195** (Senate committee printing) as follows:

(1) On page 1, lines 13 and 14, strike "Article 59.06(b), Code of Criminal Procedure, is amended" and substitute "Article 59.06, Code of Criminal Procedure, is amended by amending Subsection (b) and adding Subsections (b-1) and (b-2)".

(2) On page 1, line 34, strike the colon and substitute the following:
shall maintain any automobile insurance coverage for the vehicle that is required by law.

(b-1) If a loan is made by a sheriff's office or by a municipal police department, the commissioners court of the county in which the sheriff has jurisdiction or the governing body of the municipality in which the department has jurisdiction, as applicable, may revoke the loan at any time by notifying the receiving agency or district, by mail, that the receiving agency or district must return the loaned vehicle to the loaning agency before the seventh day after the date the receiving agency or district receives the notice.

(b-2) An agency that loans property under this article shall:

(1) keep a record of the loan, including the name of the agency to which the vehicle was loaned, the fair market value of the vehicle, and where the receiving agency will use the vehicle; and

(2) update the record when the information relating to the vehicle changes.

(3) On page 1 strike lines 35 through 39.

The amendment to **CSHB 195** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Hegar and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 195 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 195 ON THIRD READING**

Senator Hegar moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 195** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 606 ON SECOND READING

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 606** at this time on its second reading:

HB 606, Relating to certain election procedures for common school district board elections.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 606 ON THIRD READING

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 606** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 2870 ON SECOND READING

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2870** at this time on its second reading:

HB 2870, Relating to member contributions to certain retirement, disability, and death benefit systems provided by certain cities and towns.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

HOUSE BILL 2870 ON THIRD READING

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2870** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 486 ON SECOND READING

On motion of Senator Hegar and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 486** at this time on its second reading:

HB 486, Relating to the continuing education requirements for chiefs of police.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

HOUSE BILL 486 ON THIRD READING

Senator Hegar moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 486** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 2455 ON SECOND READING

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2455** at this time on its second reading:

HB 2455, Relating to the absence of a student from public school for a required court appearance.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

HOUSE BILL 2455 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2455** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

SENATE BILL 242 WITH HOUSE AMENDMENTS

Senator Shapiro called **SB 242** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer, Senator Brimer in Chair, laid the bill and the House amendments before the Senate.

Amendment

Amend **SB 242** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the transfer to the State Office of Administrative Hearings of contested cases involving the collection, receipt, administration, and enforcement of state taxes and fees by the comptroller.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 111, Tax Code, is amended by adding Section 111.00455 to read as follows:

Sec. 111.00455. CONTESTED CASES CONDUCTED BY TAX DIVISION OF STATE OFFICE OF ADMINISTRATIVE HEARINGS. (a) The tax division of the State Office of Administrative Hearings shall conduct any contested case hearing as provided by Section 2003.101, Government Code, in relation to the collection, receipt, administration, and enforcement of:

(1) a tax imposed under this title; and
(2) any other tax, fee, or other amount that the comptroller is required to collect, receive, administer, or enforce under a law not included in this title.

(b) The following are not contested cases under Subsection (a) and Section 2003.101, Government Code:

(1) a show cause hearing or any hearing not related to the collection, receipt, administration, or enforcement of the amount of a tax or fee imposed, or the penalty or interest associated with that amount, except for a hearing under Section 151.157(f), 151.1575(c), 151.712(g), 154.1142, or 155.0592;

(2) a property value study hearing under Subchapter M, Chapter 403, Government Code;

(3) a hearing in which the issue relates to:

(A) Chapters 72-75, Property Code;

(B) forfeiture of a right to do business;

(C) a certificate of authority;

- (D) articles of incorporation;
- (E) a penalty imposed under Section 151.7031;
- (F) the refusal or failure to settle under Section 111.101; or
- (G) a request for or revocation of an exemption from taxation; and

(4) any other hearing not related to the collection, receipt, administration, or enforcement of the amount of a tax or fee imposed, or the penalty or interest associated with that amount.

(c) A reference in law to the comptroller that relates to the performance of a contested case hearing described by Subsection (a) means the tax division of the State Office of Administrative Hearings.

SECTION 2. Section 2003.0411(c), Government Code, is amended to read as follows:

(c) Except as provided by Section 2003.101, to [To] be appointed a master administrative law judge, a person must have at least 10 years of general legal experience, must have at least six years of experience presiding over administrative hearings or presiding over hearings as a judge or master of a court, and must meet other requirements as prescribed by the chief administrative law judge.

SECTION 3. Chapter 2003, Government Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. TAX DIVISION

Sec. 2003.101. TAX DIVISION. (a) The office shall establish a tax division to conduct hearings relating to contested cases involving the collection, receipt, administration, and enforcement of taxes, fees, and other amounts as prescribed by Section 111.00455, Tax Code.

(b) An administrative law judge in the tax division is classified as a "master administrative law judge II." Section 2003.0411 does not apply to this section.

(c) If there are no cases in the tax division, and subject to the prior approval of the comptroller, an administrative law judge in the tax division may conduct hearings for other state agencies. Before conducting a hearing for another state agency under this subsection, the tax division must notify the comptroller in writing. The notification must describe the case that will be heard and the administrative law judge who will conduct the hearing and must estimate the amount of time that the judge will spend on the case. The office shall reimburse the comptroller at an appropriate hourly rate for the time spent by the administrative law judge on the case. The comptroller may revoke approval to conduct hearings for other state agencies under this subsection at any time.

(d) To be eligible to preside at a tax division hearing, an administrative law judge, including a temporary administrative law judge contracted with under Section 2003.043, must:

- (1) be a United States citizen;
- (2) be an attorney in good standing with the State Bar of Texas;
- (3) have been licensed in this state to practice law for at least seven years;
- (4) have substantial experience in tax cases in making the record suitable for administrative review or otherwise; and

(5) have devoted at least 75 percent of the person's legal practice to Texas state tax law in at least five of the past 10 years before the date on which the person begins employment in the tax division.

(e) Notwithstanding Section 2001.058, the comptroller may change a finding of fact or conclusion of law made by the administrative law judge or vacate or modify an order issued by the administrative law judge only if the comptroller:

(1) determines that the administrative law judge:

(A) did not properly apply or interpret applicable law, then existing comptroller rules or policies, or prior administrative decisions; or

(B) issued a finding of fact that is not supported by a preponderance of the evidence; or

(2) determines that a comptroller policy or a prior administrative decision on which the administrative law judge relied is incorrect.

(f) The comptroller shall state in writing the specific reason and legal basis for a determination under Subsection (e).

(g) An administrative law judge, on the judge's own motion or on motion of a party and after notice and an opportunity for a hearing, may impose appropriate sanctions as provided by Subsection (h) against a party or its representative for:

(1) filing of a motion or pleading that is groundless and brought:

(A) in bad faith;

(B) for the purpose of harassment; or

(C) for any other improper purpose, such as to cause unnecessary delay or needless increase in the cost of the proceeding;

(2) abuse of the discovery process in seeking, making, or resisting discovery; or

(3) failure to obey an order of the administrative law judge or the comptroller.

(h) A sanction imposed under Subsection (g) may include, as appropriate and justified, issuance of an order:

(1) disallowing further discovery of any kind or of a particular kind by the offending party;

(2) holding that designated facts be deemed admitted for purposes of the proceeding;

(3) refusing to allow the offending party to support or oppose a designated claim or defense or prohibiting the party from introducing designated matters in evidence;

(4) disallowing in whole or in part requests for relief by the offending party and excluding evidence in support of such requests; and

(5) striking pleadings or testimony, or both, wholly or partly, or staying further proceedings until the order is obeyed.

(i) For each hearing conducted under this section, an administrative law judge in the tax division shall issue a proposal for decision that includes findings of fact and conclusions of law. In addition, the proposal for decision must include the legal reasoning and other analysis considered by the judge in reaching the decision. Each finding of fact or conclusion of law made by the judge must be:

(1) independent and impartial; and

(2) based on state law and the evidence presented at the hearing.

(j) The comptroller may not attempt to influence the findings of fact or the administrative law judge's application of the law except by evidence and legal argument. An administrative law judge conducting a hearing under this subchapter may not directly or indirectly communicate in connection with an issue of fact or law with a party or its representative, except:

(1) on notice and opportunity for each party to participate; or

(2) to ask questions that involve ministerial, administrative, or procedural matters that do not address the substance of the issues or positions taken in the case.

(k) Appearances in hearings conducted for the comptroller by the office may be by:

(1) the taxpayer;

(2) an attorney licensed to practice law in this state;

(3) a certified public accountant; or

(4) any other person designated by the taxpayer who is not otherwise prohibited from appearing in the hearing.

(l) The comptroller is represented by an authorized representative in all hearings conducted for the comptroller by the office.

Sec. 2003.102. SUNSET PROVISION. (a) The tax division is subject to Chapter 325 (Texas Sunset Act).

(b) The Sunset Advisory Commission shall evaluate the tax division every two years and present to the legislature at each regular legislative session a report on that evaluation and the commission's recommendations in relation to the tax division.

(c) The commission shall submit the first report required under this section to the 82nd Legislature.

(d) During the regular legislative session at which the commission presented its report and recommendations, the legislature by law may continue the tax division as provided by that chapter for a period not to exceed two years. If the tax division is not continued in existence as provided by that chapter, the tax division is abolished and this subchapter and Section 111.00455, Tax Code, expire on September 1 of the odd-numbered year in which the regular legislative session occurred.

Sec. 2003.103. TIMELINESS OF HEARINGS. (a) The tax division shall conduct all hearings under this subchapter in a timely manner.

(b) The tax division shall use every reasonable means to expedite a case under this subchapter when the comptroller requests that the division expedite the case.

(c) This section is not intended to impair the independence of the office in conducting a hearing under this subchapter.

Sec. 2003.104. CONFIDENTIALITY OF TAX DIVISION INFORMATION. (a) The office shall keep information that identifies a taxpayer who participates in a case under this subchapter confidential, including the taxpayer's name and social security number.

(b) The provision of information to the office that is confidential under any law, including Section 111.006, 151.027, or 171.206, Tax Code, does not affect the confidentiality of the information, and the office shall maintain that confidentiality.

(c) A hearing conducted under this subchapter is confidential and not open to the public.

Sec. 2003.105. TAX DIVISION HEARINGS FEE. The office shall charge the comptroller a fixed annual fee rather than an hourly rate for services rendered by the office to the comptroller. The office and the comptroller shall negotiate the amount of the fixed fee biennially to coincide with the comptroller's legislative appropriations request.

Sec. 2003.106. COMPTROLLER'S PRIORITIES AND PUBLIC POLICY NEEDS. (a) The comptroller shall provide input to the office to assist the office regarding the comptroller's priorities and public policy needs.

(b) This section is intended to assist the office in providing efficient service under this subchapter and is not intended to impair the independence of the office in conducting a hearing under this subchapter.

Sec. 2003.107. TAX DIVISION REVIEW. On request of the comptroller, the office shall provide the comptroller the following regarding the tax division:

(1) a list of the administrative law judges, including temporary administrative law judges, who have heard cases in the division in the past year;

(2) the qualifications of the judges; and

(3) any other information considered necessary by the comptroller in evaluating the performance of the judges hearing cases in the tax division.

Sec. 2003.108. REPORTS. (a) The office shall provide the comptroller a monthly status report that lists pending cases and provides information on any case that exceeds the comptroller's time lines for issuing a proposal for decision or an agreed order.

(b) At least quarterly, the office shall review with the comptroller and appropriate staff of the office the status of pending cases under this subchapter.

(c) The office shall provide a quarterly report to the comptroller on services performed by the office for the comptroller under this subchapter.

Sec. 2003.109. RULES; EARLY REFERRAL. (a) The comptroller may adopt rules to provide for the referral to the tax division of issues related to a case described by Section 111.00455, Tax Code, to resolve a procedural or other preliminary dispute between the comptroller and a party.

(b) After a referral under this section, the tax division shall docket the case and assign an administrative law judge under Section 2003.101. If additional proceedings are required after the consideration of the procedural or other preliminary dispute, the tax division shall appoint the same administrative law judge to hear the case.

SECTION 4. The changes in law made by this Act that relate to the procedures governing a hearing before the tax division of the State Office of Administrative Hearings apply only to a case that is filed with the State Office of Administrative Hearings on or after the effective date of this Act. Procedures relating to a case filed with the State Office of Administrative Hearings before the effective date of this Act shall continue to be used in a hearing as those procedures existed immediately before the effective date of this Act, or as provided by an interagency cooperation contract entered into between the comptroller and the office in effect immediately before the effective date of this Act, and are continued in effect only for that purpose.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

Floor Amendment No. 1

Amend **CSSB 242** by striking Section 2003.102 and substituting the following:

Sec. 2003.102. SUNSET PROVISION. (a) The tax division is subject to Chapter 325 (Texas Sunset Act).

(b) The Sunset Advisory Commission shall evaluate the tax division and present to the 82nd Legislature a report on that evaluation and the commission's recommendations in relation to the tax division.

(c) During the regular legislative session at which the commission presents its report and recommendations, the legislature by law may continue the tax division as provided by that chapter. If the tax division is not continued in existence as provided by that chapter, the tax division is abolished and this subchapter and Section 111.00455, Tax Code, expire on September 1 of the odd-numbered year in which the regular legislative session occurred.

The amendments were read.

Senator Shapiro moved to concur in the House amendments to **SB 242**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 156 WITH HOUSE AMENDMENT

Senator Shapiro called **SB 156** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 156** (House committee printing) as follows:

(1) In SECTION 1 of the bill, in proposed Section 531.458, Government Code (page 5, line 27), between "shall" and "contract" insert "hire or".

(2) In SECTION 2(b) of the bill (page 8, line 6), strike "December 1, 2007" and substitute "September 1, 2008".

(3) In SECTION 2 of the bill (page 8, between lines 9 and 10) insert the following:

(c) Not later than December 1, 2008, the Health and Human Services Commission shall submit a report to the Senate Health and Human Services Committee, or its successor, and the House Human Services Committee, or its successor, regarding the implementation and status of the nurse-family partnership competitive grant program required by Subchapter M, Chapter 531, Government Code, as added by this Act.

(4) In SECTION 2(c) of the bill (page 8, line 10), strike:

"(c) Not later than December 1, 2008" and substitute "(d) Not later than December 1, 2009".

The amendment was read.

Senator Shapiro moved to concur in the House amendment to **SB 156**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 2439 ON SECOND READING

On motion of Senator Janek and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2439** at this time on its second reading:

HB 2439, Relating to the functions of local mental health and mental retardation authorities.

The bill was read second time.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2439** (Senate committee printing) as follows:

(1) In SECTION 6 of the bill, in added Section 533.0359, Health and Safety Code (page 7, line 62), between "AUTHORITIES." and "In", insert "(a)".

(2) In SECTION 6 of the bill, immediately following the text of added Section 533.0359, Health and Safety Code (page 7, between lines 65 and 66), insert the following:

(b) The executive commissioner by rule shall prohibit a trustee or employee of a local mental health authority from soliciting or accepting from another person a benefit, including a security or stock, a gift, or another item of value, that is intended to influence the person's conduct of authority business.

The amendment to **HB 2439** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

On motion of Senator Janek and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2439 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

HOUSE BILL 2439 ON THIRD READING

Senator Janek moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2439** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 1524 REREFERRED

Senator Zaffirini submitted a Motion In Writing requesting that **HB 1524** be withdrawn from the Subcommittee on Emerging Technologies and Economic Development and rereferred to the Committee on Business and Commerce.

The Motion In Writing prevailed without objection.

HOUSE BILL 1952 REREFERRED

Senator Averitt submitted a Motion In Writing requesting that **HB 1952** be withdrawn from the Subcommittee on Emerging Technologies and Economic Development and rereferred to the Committee on Business and Commerce.

The Motion In Writing prevailed without objection.

COMMITTEE SUBSTITUTE HOUSE BILL 1623 ON SECOND READING

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1623** at this time on its second reading:

CSHB 1623, Relating to certain offenses and fees imposed for operating a motor vehicle or vessel in violation of law.

The bill was read second time.

Senator Carona, on behalf of Senator Ogden, offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1623**, after SECTION 5 of the bill, by adding new SECTION 6 to read as follows, and renumbering subsequent SECTIONS of the bill accordingly:

SECTION 6. Section 521.457, Transportation Code, is amended by amending Subsections (e) and (f) and adding Subsection (f-1) to read as follows:

(e) Except as provided by Subsection (f), an offense under this section is a Class C misdemeanor ~~[punishable by:~~

~~[(1) a fine of not less than \$100 or more than \$500; and~~

~~[(2) confinement in county jail for a term of not less than 72 hours or more than six months].~~

(f) If it is shown on the trial of an offense under this section that the person has previously been convicted of an offense under this section or an offense under Section 601.371(a), as that law existed before September 1, 2003, the offense is a Class B ~~[A]~~ misdemeanor.

(f-1) If it is shown on the trial of an offense under this section that the person has previously been convicted twice or more of an offense under this section or an offense under Section 601.371(a), as that law existed before September 1, 2003, the offense is a Class A misdemeanor.

The amendment to **CSHB 1623** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent: Ogden.

Senator Estes offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 1623** (Senate committee printing) as follows:

- (1) Strike SECTIONS 6 and 8 of the bill.
- (2) In Subsection (a), SECTION 10 of the bill, (page 3, lines 1-2), strike "Subject to Subsection (c) of this section, the" and substitute "The".
- (3) Strike Subsection (c), SECTION 10 of the bill (page 3, lines 10-19).
- (4) Renumber existing SECTIONS of the bill as appropriate.

The amendment to **CSHB 1623** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent: Ogden.

Senator Harris offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 1623** as follows:

- (1) Strike SECTION 4 of the bill (committee printing page 1, line 43 through line 49) and substitute:

SECTION 4. Section 521.054, Transportation Code, is amended by adding Subsection (d) to read as follows:

(d) A court may dismiss a charge for a violation of this section if the defendant remedies the defect not later than the 20th working day after the date of the offense and pays an administrative fee not to exceed \$20. The court may waive the administrative fee if the waiver is in the interest of justice.

- (2) Add the following appropriately numbered SECTIONS to the bill and renumber existing SECTIONS appropriately:

SECTION __. Section 502.407(b), Transportation Code, is amended to read as follows:

(b) A justice of the peace or municipal court judge having jurisdiction of the offense may:

- (1) dismiss a charge of driving with an expired motor vehicle registration if the defendant:

(A) remedies the defect not later than the 20th ~~10th~~ working day after the date of the offense or before the defendant's first court appearance date, whichever is later; and

(B) establishes that the fee prescribed by Section 502.176 has been paid; and

- (2) assess an administrative fee not to exceed \$20 ~~[\$10]~~ when the charge is dismissed.

SECTION __. Section 521.026, Transportation Code, is amended to read as follows:

Sec. 521.026. DISMISSAL OF EXPIRED LICENSE CHARGE. (a) A judge may dismiss a charge of driving with an expired license if the defendant remedies this defect within 20 ~~[40]~~ working days or before the defendant's first court appearance date, whichever is later.

(b) The judge may assess the defendant an administrative fee not to exceed \$20 ~~[\$40]~~ when the charge of driving with an expired driver's license is dismissed under Subsection (a).

SECTION __. Section 548.605(b), Transportation Code, is amended to read as follows:

(b) The court shall:

(1) dismiss a charge of driving with an expired inspection certificate if:

(A) the defendant remedies the defect within 20 ~~[40]~~ working days or before the defendant's first court appearance date, whichever is later; and

(B) the inspection certificate has not been expired for more than 60 days; and

(2) assess an administrative fee not to exceed \$20 ~~[\$40]~~ when the charge of driving with an expired inspection certificate has been remedied.

The amendment to **CSHB 1623** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3 except as follows:

Absent: Ogden.

On motion of Senator Carona and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 1623 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

COMMITTEE SUBSTITUTE HOUSE BILL 1623 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1623** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE HOUSE BILL 1251 ON SECOND READING

The Presiding Officer laid before the Senate **CSHB 1251** by Senator Wentworth on its second reading. The bill had been read second time, amended, and further consideration postponed:

CSHB 1251, Relating to a public agency's, county's, or municipality's authority to enforce a solid waste collection and transportation services franchise.

Question — Shall **CSHB 1251** as amended be passed to third reading?

VOTE RECONSIDERED

On motion of Senator Shapleigh and by unanimous consent, the vote by which Floor Amendment No. 1 was adopted was reconsidered.

Question — Shall Floor Amendment No. 1 to **CSHB 1251** be adopted?

Senator Seliger offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend Floor Amendment No. 1 to **CSHB 1251** by striking the last sentence of amended Subsection (e), Section 364.034, Health and Safety Code, and substituting: Except as provided by Subsection (f), the governing body of a municipality may provide that a franchise it grants or a contract it enters into for solid waste collection and transportation services under this subchapter or under other law supersedes inside of the municipality's boundaries any other franchise granted or contract entered into under this subchapter.

The amendment to Floor Amendment No. 1 to **CSHB 1251** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent: Ogden.

Senator Wentworth offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 3

Amend Floor Amendment No. 1 to **CSHB 1251** in proposed Subsection (g), Section 364.034, Health and Safety Code, by striking: The exemption is effective only until the date the term of that contract expires according to the terms of that contract as provided on the date the requirement is adopted. This subsection does not exempt from the adopted requirement a person whose contract is extended, by option or otherwise, after the date the requirement is adopted.

The amendment to Floor Amendment No. 1 to **CSHB 1251** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3 except as follows:

Absent: Ogden.

Question recurring on the adoption of Floor Amendment No. 1 to **CSHB 1251**, the amendment as amended was again adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 as amended except as follows:

Absent: Ogden.

On motion of Senator Wentworth and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 1251 as again amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent: Ogden.

COMMITTEE SUBSTITUTE HOUSE BILL 1251 ON THIRD READING

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1251** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

SENATE BILL 377 WITH HOUSE AMENDMENT

Senator Janek called **SB 377** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 377** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the electronic payment of certain taxes and the electronic filing of certain reports.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 111.0625, Tax Code, is amended to read as follows:

Sec. 111.0625. ELECTRONIC TRANSFER OF CERTAIN PAYMENTS. (a) Except as provided by Subsections (b) and (c), the [The] comptroller by rule shall require a taxpayer who paid \$100,000 or more during the preceding fiscal year in a category of payments required under this title to transfer payments in that category by means of electronic funds transfer in accordance with Section 404.095, Government Code, if the comptroller reasonably anticipates the person will pay at least that amount during the current fiscal year.

(b) The comptroller by rule shall require a taxpayer who paid \$10,000 or more during the preceding fiscal year in the category of payments described by this subsection to transfer payments in that category by means of electronic funds transfer in accordance with Section 404.095, Government Code, if the comptroller reasonably anticipates the person will pay at least that amount during the current fiscal year. This subsection applies only to:

(1) state and local sales and use taxes;

- (2) direct payment sales taxes;
- (3) gas severance taxes;
- (4) oil severance taxes;
- (5) franchise taxes;
- (6) gasoline taxes;
- (7) diesel fuel taxes;
- (8) hotel occupancy taxes;
- (9) insurance premium taxes;
- (10) mixed beverage gross receipts taxes;
- (11) motor vehicle rental taxes; and
- (12) telecommunications infrastructure fund assessments.

(c) Notwithstanding Subsection (b), if the comptroller determines that the action is necessary to protect the state's interest or the interests of taxpayers, the comptroller by rule may:

(1) apply the requirements of Subsection (b) to a category of payments not listed in Subsection (b); or

(2) remove the requirements of Subsection (b) from a category of payments listed in Subsection (b).

(d) A rule adopted under Subsection (b) or (c) must provide for a waiver from the requirements of that subsection for a taxpayer who cannot comply because of hardship, impracticality, or other reason.

(e) The comptroller by rule may specify the types of electronic funds transfers a person must use to comply with this section. The rule may require a taxpayer to use different types of transfers for different payment amounts.

SECTION 2. Section 111.0626, Tax Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) Notwithstanding any other law, the comptroller by rule may require a taxpayer who paid \$50,000 or more during the preceding fiscal year to file reports electronically during the current fiscal year. A taxpayer filing a report electronically may use software provided by the comptroller or commercially available software that satisfies requirements prescribed by the comptroller.

SECTION 3. (a) Section 2 of this Act takes effect September 1, 2008.

(b) Except as provided by Subsection (a) of this section, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

The amendment was read.

Senator Janek moved to concur in the House amendment to **SB 377**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 625 WITH HOUSE AMENDMENTS

Senator Janek called **SB 625** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Amendment No. 1

Amend **SB 625** as follows:

Amend Section 1, page 2 by adding new Section 562.0142(e):

(d) Notwithstanding any other provision of the law, this section applies only if the prescribing practitioner indicates on the prescription or in the directions of the prescription that the drug is for immunosuppressant therapy following a transplant as that term is defined by Section 562.0142(a).

Floor Amendment No. 2

Amend **SB 625** as follows:

Amend Sec. 562.0142(b) on page 1, lines 22-23 by striking "notification of and the signed informed"

Amend Sec. 562.0142(c) on page 2, line 1 by striking subsection (c) and replacing it with the following:

(c) To comply with Subsection (b), a pharmacist shall notify a prescribing physician orally or electronically to secure permission to interchange an immunosuppressant drug or formulation of an immunosuppressant drug, brand or generic. The prescriber's authorization or denial of authorization shall be documented in writing by the pharmacist and by the prescriber.

Floor Amendment No. 3

Amend **SB 625** as follows:

Amend Section 1, page 2 by adding new Section 562.0142(d):

(d) If a pharmacist does not have the same drug product by the same manufacturer in stock to refill the prescription, or if the prescriber is unavailable to give authorization, the pharmacist may dispense a drug product that is generically equivalent if the pharmacist, before dispensing the generically equivalent drug product

(1) notifies and receives consent from the patient, at the time the prescription is dispensed, to substitute the prescribed drug product; and

(2) notifies the prescribing physician of the drug product substitution orally or electronically at the earliest reasonable time, but not later than 72 hours after dispensing the prescription.

Floor Amendment No. 4

Amend Floor Amendment No. 3 by Hopson to **SB 625** by striking "72" and substituting "24".

Floor Amendment No. 5

Amend **SB 625** as follows:

On page 2, line 14, insert a new paragraph (d) as follows:

(d) This section only applies to a drug that is included on the list of narrow therapeutic index drugs as provided by Section 562.014, Occupations Code.

Floor Amendment No. 1 on Third Reading

Amend **SB 625** on third reading by striking all below the enacting clause and substituting the following:

SECTION 1. Section 562.014, Occupations Code, is amended to read as follows:

Sec. 562.014. [~~APPLICATION TO~~] NARROW THERAPEUTIC INDEX DRUGS. (a) Except as provided by this section, drug selection as authorized by this subchapter does not apply to the refill of a prescription for a narrow therapeutic index drug. The board, in consultation with the Texas Medical [~~State~~] Board [~~of Medical Examiners~~], shall by rule establish a list of narrow therapeutic index drugs to which this subsection applies. A prescription for a narrow therapeutic index drug may be refilled only by using the same drug product by the same manufacturer that the pharmacist last dispensed under the prescription, unless otherwise agreed to by the prescribing practitioner [~~physician~~]. If a pharmacist does not have the same drug product by the same manufacturer in stock to refill the prescription, the pharmacist may dispense a drug product that is generically equivalent if the pharmacist, before dispensing the generically equivalent drug product, notifies:

(1) the patient, at the time the prescription is dispensed, that a substitution of the prescribed drug product has been made; and

(2) the prescribing practitioner [~~physician~~] of the drug product substitution by telephone, facsimile, or mail, at the earliest reasonable time, but not later than 72 hours after dispensing the prescription.

(b) The board and the Texas Medical Board shall establish a joint committee to recommend to the board a list of narrow therapeutic index drugs and the rules, if any, by which this section applies to those drugs. The committee must consist of an equal number of members from each board. The committee members shall select a member of the committee to serve as presiding officer for a one year term. The presiding officer may not represent the same board as the presiding officer's predecessor.

(c) The committee shall make a recommendation to the board on whether to include a drug on the list of narrow therapeutic index drugs as required by Section 562.0142. In the event of a tie vote by the committee on whether to recommend that a drug listed in this subsection be included on the list of narrow therapeutic index drugs, the committee shall recommend to the board that the drug not be placed on the list. The committee shall consider for inclusion in the list of narrow therapeutic index drugs the following drugs:

- (1) Tegretol/Tegretol XR (carbamazepine);
- (2) Depakote/Depakote ER (valproic acid);
- (3) Dilantin (phenytoin);
- (4) Lamictal (lamotrigine);
- (5) Zarontin (ethosuximide);
- (6) Keppra (levetiracetam);
- (7) Topamax (topiramate);
- (8) Trileptal (oxcarbazepine);
- (9) Zonegran (zonisamide);
- (10) Felbatol (felbamate);
- (11) Depakote DR;
- (12) Depakote ER;
- (13) Depacon;
- (14) Depakote Sprinkles;

- (15) Depakene;
- (16) Prograf;
- (17) Cellcept;
- (18) Neoral;
- (19) Rapamune; and
- (20) Sandimmune.

(d) Subsection (c) and this subsection expire December 31, 2008.

SECTION 2. Subchapter A, Chapter 562, Occupations Code, is amended by adding Sections 562.0141 and 562.0142 to read as follows:

Sec. 562.0141. TRANSPLANT IMMUNOSUPPRESSANT DRUG PRODUCT SELECTION PROHIBITED. (a) In this section:

(1) "Immunosuppressant drug" means any drug prescribed for immunosuppressant therapy following a transplant.

(2) "Interchange" means the substitution of one version of the same immunosuppressant drug, including a generic version for the prescribed brand, a brand version for the prescribed generic version, a generic version by one manufacturer for a generic version by a different manufacturer, a different formulation of the prescribed immunosuppressant drug, or a different immunosuppressant drug for the immunosuppressant drug originally prescribed.

(b) A pharmacist may not interchange an immunosuppressant drug or formulation of an immunosuppressant drug, brand or generic, for the treatment of a patient following a transplant without prior consent to the interchange from the prescribing practitioner.

(c) To comply with Subsection (b), a pharmacist shall notify a prescribing practitioner orally or electronically to secure permission to interchange an immunosuppressant drug or formulation of an immunosuppressant drug, brand or generic. The practitioner's authorization or denial of authorization must be documented by the pharmacist and by the practitioner.

(d) If a pharmacist does not have the same drug product by the same manufacturer in stock to refill the prescription, or if the practitioner is unavailable to give authorization, the pharmacist may dispense a drug product that is generically equivalent if the pharmacist, before dispensing the generally equivalent drug product:

(1) notifies and receives consent from the patient, at the time the prescription is dispensed, to substitute the prescribed drug product; and

(2) notifies the prescribing practitioner of the drug product substitution orally or electronically at the earliest reasonable time, but not later than 24 hours after dispensing the prescription.

(e) This section is only effective subject to the conditions established by Section 562.0142.

Sec. 562.0142. ADOPTION OF RULES. (a) If, not later than October 1, 2007, a drug manufacturer requests that the joint committee under Section 562.014 conduct a hearing and make a recommendation to include a drug listed in Section 562.014(c) on the list of narrow therapeutic index drugs, the joint committee shall make a recommendation to the board to enable the board to adopt a rule and issue findings not later than July 1, 2008.

(b) If, not later than October 1, 2007, no drug manufacturer requests that the joint committee conduct a hearing and make recommendations to the board to include a drug listed in Section 562.014(c) on the list of narrow therapeutic index drugs, Section 562.0141 expires October 1, 2007.

(c) If all drug manufacturers that request, before October 1, 2007, the joint committee to conduct a hearing and make a recommendation to the board to include a drug listed in Section 562.014(c) on the list of narrow therapeutic index drugs subsequently withdraw those requests before the date the joint committee makes a recommendation to include the drug on that list, Section 562.0141 expires effective on the date of the manufacturers' withdrawal of those requests.

(d) If the joint committee receives a request under Subsection (a), the recommendation of the joint committee under that subsection may include the drugs listed in Section 562.014(c) or the joint committee may recommend that no drug should be added to the list of narrow therapeutic index drugs following the review by the joint committee.

(e) If the joint committee receives a request under Subsection (a) and, not later than July 1, 2008, the board adopts a rule to include any drug listed in Section 562.014(c) on the list of narrow therapeutic index drugs or determines by rule that no drug should be added to the list of narrow therapeutic index drugs, Section 562.0141 expires on July 1, 2008.

(f) If the joint committee receives a request under Subsection (a) and the board does not before July 1, 2008, adopt a rule to include any drug listed in Section 562.014(c) on the list of narrow therapeutic index drugs or determine by rule that no drug should be added to the list of narrow therapeutic index drugs, Section 562.0141 takes effect July 1, 2008.

(g) If the joint committee receives a request under Subsection (a) and litigation or a request for an attorney general's opinion regarding this section, Section 562.014, or Section 562.0141 is filed by a drug manufacturer between the effective date of this section and July 1, 2008, the time limits established by Subsections (e) and (f) are tolled until the litigation is resolved or the attorney general renders an opinion.

(h) For purposes of this section, notice of the following must be published in the Texas Register not later than the third business day after the date of occurrence:

(1) a request by a drug manufacturer for inclusion of a drug on the list of narrow therapeutic index drugs;

(2) withdrawal of a request described by Subdivision (1);

(3) litigation described by Subsection (g);

(4) resolution of litigation described by Subsection (g); and

(5) a request for an attorney general's opinion described by Subsection (g).

SECTION 3. Section 562.009, Occupations Code, is amended by adding Subsection (e) to read as follows:

(e) If the prescription is for an immunosuppressant drug, as defined by Section 562.0141(a)(1), the pharmacist must comply with the provisions of Section 562.0141. This subsection expires if Section 562.0141 expires under the requirements of Section 562.0142.

SECTION 4. The Texas State Board of Pharmacy and Texas Medical Board shall establish the joint committee required by Section 562.014(b), Occupations Code, as added by this Act, not later than the 90th day after the effective date of this Act or September 1, 2007, whichever date occurs first.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

Floor Amendment No. 2 on Third Reading

Amend **SB 625** on third reading by striking all below the enacting clause and substituting the following:

SECTION 1. Section 562.014, Occupations Code, is amended to read as follows:

Sec. 562.014. ~~[APPLICATION TO]~~ NARROW THERAPEUTIC INDEX DRUGS. (a) Except as provided by this section, drug selection as authorized by this subchapter does not apply to the refill of a prescription for a narrow therapeutic index drug. The board, in consultation with the Texas Medical ~~[State]~~ Board ~~[of Medical Examiners]~~, shall by rule establish a list of narrow therapeutic index drugs to which this subsection applies. A prescription for a narrow therapeutic index drug may be refilled only by using the same drug product by the same manufacturer that the pharmacist last dispensed under the prescription, unless otherwise agreed to by the prescribing practitioner ~~[physician]~~. If a pharmacist does not have the same drug product by the same manufacturer in stock to refill the prescription, the pharmacist may dispense a drug product that is generically equivalent if the pharmacist, before dispensing the generically equivalent drug product, notifies:

(1) the patient, at the time the prescription is dispensed, that a substitution of the prescribed drug product has been made; and

(2) the prescribing practitioner ~~[physician]~~ of the drug product substitution by telephone, facsimile, or mail, at the earliest reasonable time, but not later than 72 hours after dispensing the prescription.

(b) The board and the Texas Medical Board shall establish a joint committee to recommend to the board a list of narrow therapeutic index drugs and the rules, if any, by which this section applies to those drugs. The committee must consist of an equal number of members from each board. The committee members shall select a member of the committee to serve as presiding officer for a one year term. The presiding officer may not represent the same board as the presiding officer's predecessor.

(c) The committee shall make a recommendation to the board on whether to include a drug on the list of narrow therapeutic index drugs as required by Section 562.0142. In the event of a tie vote by the committee on whether to recommend that a drug listed in this subsection be included on the list of narrow therapeutic index drugs, the committee shall recommend to the board that the drug not be placed on the list. The committee shall consider for inclusion in the list of narrow therapeutic index drugs the following drugs:

- (1) Prograf;
- (2) Cellcept;
- (3) Neoral;

(4) Rapamune; and

(5) Sandimmune.

(d) Subsection (c) and this subsection expire December 31, 2008.

SECTION 2. Subchapter A, Chapter 562, Occupations Code, is amended by adding Sections 562.0141 and 562.0142 to read as follows:

Sec. 562.0141. TRANSPLANT IMMUNOSUPPRESSANT DRUG PRODUCT SELECTION PROHIBITED. (a) In this section:

(1) "Immunosuppressant drug" means any drug prescribed for immunosuppressant therapy following a transplant.

(2) "Interchange" means the substitution of one version of the same immunosuppressant drug, including a generic version for the prescribed brand, a brand version for the prescribed generic version, a generic version by one manufacturer for a generic version by a different manufacturer, a different formulation of the prescribed immunosuppressant drug, or a different immunosuppressant drug for the immunosuppressant drug originally prescribed.

(b) A pharmacist may not interchange an immunosuppressant drug or formulation of an immunosuppressant drug, brand or generic, for the treatment of a patient following a transplant without prior consent to the interchange from the prescribing practitioner.

(c) To comply with Subsection (b), a pharmacist shall notify a prescribing practitioner orally or electronically to secure permission to interchange an immunosuppressant drug or formulation of an immunosuppressant drug, brand or generic. The practitioner's authorization or denial of authorization must be documented by the pharmacist and by the practitioner.

(d) If a pharmacist does not have the same drug product by the same manufacturer in stock to refill the prescription, or if the practitioner is unavailable to give authorization, the pharmacist may dispense a drug product that is generically equivalent if the pharmacist, before dispensing the generally equivalent drug product:

(1) notifies and receives consent from the patient, at the time the prescription is dispensed, to substitute the prescribed drug product; and

(2) notifies the prescribing practitioner of the drug product substitution orally or electronically at the earliest reasonable time, but not later than 24 hours after dispensing the prescription.

(e) This section is only effective subject to the conditions established by Section 562.0142.

Sec. 562.0142. ADOPTION OF RULES. (a) If, not later than October 1, 2007, a drug manufacturer requests that the joint committee under Section 562.014 conduct a hearing and make a recommendation to include a drug listed in Section 562.014(c) on the list of narrow therapeutic index drugs, the joint committee shall make a recommendation to the board to enable the board to adopt a rule and issue findings not later than July 1, 2008.

(b) If, not later than October 1, 2007, no drug manufacturer requests that the joint committee conduct a hearing and make recommendations to the board to include a drug listed in Section 562.014(c) on the list of narrow therapeutic index drugs, Section 562.0141 expires October 1, 2007.

(c) If all drug manufacturers that request, before October 1, 2007, the joint committee to conduct a hearing and make a recommendation to the board to include a drug listed in Section 562.014(c) on the list of narrow therapeutic index drugs subsequently withdraw those requests before the date the joint committee makes a recommendation to include the drug on that list, Section 562.0141 expires effective on the date of the manufacturers' withdrawal of those requests.

(d) If the joint committee receives a request under Subsection (a), the recommendation of the joint committee under that subsection may include the drugs listed in Section 562.014(c) or the joint committee may recommend that no drug should be added to the list of narrow therapeutic index drugs following the review by the joint committee.

(e) If the joint committee receives a request under Subsection (a) and, not later than July 1, 2008, the board adopts a rule to include any drug listed in Section 562.014(c) on the list of narrow therapeutic index drugs or determines by rule that no drug should be added to the list of narrow therapeutic index drugs, Section 562.0141 expires on July 1, 2008.

(f) If the joint committee receives a request under Subsection (a) and the board does not before July 1, 2008, adopt a rule to include any drug listed in Section 562.014(c) on the list of narrow therapeutic index drugs or determine by rule that no drug should be added to the list of narrow therapeutic index drugs, Section 562.0141 takes effect July 1, 2008.

(g) If the joint committee receives a request under Subsection (a) and litigation or a request for an attorney general's opinion regarding this section, Section 562.014, or Section 562.0141 is filed by a drug manufacturer between the effective date of this section and July 1, 2008, the time limits established by Subsections (e) and (f) are tolled until the litigation is resolved or the attorney general renders an opinion.

(h) For purposes of this section, notice of the following must be published in the Texas Register not later than the third business day after the date of occurrence:

(1) a request by a drug manufacturer for inclusion of a drug on the list of narrow therapeutic index drugs;

(2) withdrawal of a request described by Subdivision (1);

(3) litigation described by Subsection (g);

(4) resolution of litigation described by Subsection (g); and

(5) a request for an attorney general's opinion described by Subsection (g).

SECTION 3. Section 562.009, Occupations Code, is amended by adding Subsection (e) to read as follows:

(e) If the prescription is for an immunosuppressant drug, as defined by Section 562.0141(a)(1), the pharmacist must comply with the provisions of Section 562.0141. This subsection expires if Section 562.0141 expires under the requirements of Section 562.0142.

SECTION 4. The Texas State Board of Pharmacy and Texas Medical Board shall establish the joint committee required by Section 562.014(b), Occupations Code, as added by this Act, not later than the 90th day after the effective date of this Act or September 1, 2007, whichever date occurs first.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

The amendments were read.

Senator Janek moved to concur in the House amendments to **SB 625**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1659 WITH HOUSE AMENDMENT

Senator Nichols called **SB 1659** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 1659** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the transfer of the Texas State Railroad to, and the creation of, the Texas State Railroad Authority.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 4, Special District Local Laws Code, is amended by adding Subtitle D to read as follows:

SUBTITLE D. PARKS AND RECREATION CHAPTER 4501. TEXAS STATE RAILROAD AUTHORITY SUBCHAPTER A. GENERAL PROVISIONS

Sec. 4501.001. DEFINITIONS. In this chapter:

- (1) "Authority" means the Texas State Railroad Authority.
- (2) "Board" means the authority's board of directors.
- (3) "Director" means a board member.

Sec. 4501.002. CREATION AND NATURE OF AUTHORITY. The Texas State Railroad Authority is a special district created under Section 59, Article XVI, Texas Constitution, for the development of parks and recreational facilities.

Sec. 4501.003. PURPOSES OF AUTHORITY. (a) The authority is created to:

- (1) purchase, own, hold, lease, and otherwise acquire facilities or other property to operate and maintain the Texas State Railroad;
- (2) continue and improve the operation of the Texas State Railroad as a public recreational, historical, and cultural resource;
- (3) operate concessions, museums, campgrounds, and other facilities associated with the Texas State Railroad; and
- (4) enhance, augment, and improve the historical, educational, and cultural benefits offered by the Texas State Railroad.

(b) The creation of the authority is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, tourism, recreation, the arts, entertainment, economic development, and public welfare in Anderson and Cherokee Counties.

Sec. 4501.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The authority is created to serve a public use and benefit.

(b) All residents of this state will benefit from the works and projects provided by the authority.

(c) The creation of the authority is in the public interest and is essential to:

(1) further the public purposes of development and diversification of the economy of the state;

(2) eliminate unemployment and underemployment; and

(3) develop and expand commerce, tourism, recreation, historical awareness, education, and the arts.

(d) The authority will:

(1) promote the health, safety, and general welfare of residents, employers, employees, visitors, and consumers in Anderson and Cherokee Counties;

(2) preserve, maintain, and enhance the Texas State Railroad; and

(3) preserve, maintain, and enhance the economic health and vitality of Anderson and Cherokee Counties.

(e) The authority may not act as the agent or instrumentality of any private interest, even though the authority will incidentally benefit many private interests in addition to the paramount public interest.

Sec. 4501.005. GENERAL WATER DISTRICT LAW NOT APPLICABLE. Chapter 49, Water Code, does not apply to the authority.

[Sections 4501.006-4501.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 4501.051. GOVERNING BODY; TERMS. (a) The authority is governed by a board of seven voting directors appointed under Section 4501.053, with three directors appointed by the City of Palestine, three directors appointed by the City of Rusk, and one director appointed by the other directors.

(b) Voting directors serve staggered three-year terms, with:

(1) as near as possible to one-third of the terms of directors appointed by each city or other political subdivision expiring September 1 of each year; and

(2) the term of the director appointed by the other directors expiring October 1 of each third year.

Sec. 4501.052. ELIGIBILITY. (a) To be qualified to serve as a director, a person must be at least 21 years of age.

(b) A voting director may not serve more than three consecutive terms.

(c) At least two of the three directors appointed by:

(1) the City of Palestine must reside in Anderson County; and

(2) the City of Rusk must reside in Cherokee County.

Sec. 4501.053. APPOINTMENT OF DIRECTORS. (a) Not later than August 31 of each year, by majority vote:

(1) the city council of the City of Palestine shall appoint as a voting director one person proposed by the mayor of Palestine; and

(2) the city council of the City of Rusk shall appoint as a voting director one person proposed by the mayor of Rusk.

(b) Not later than September 30 of every third year, by majority vote, the directors appointed under Subsection (a) shall appoint a seventh director.

Sec. 4501.054. NONVOTING DIRECTORS. (a) The following persons serve as nonvoting directors:

(1) the mayor of the City of Palestine or a member of the city council of the City of Palestine designated by the mayor; and

(2) the mayor of the City of Rusk or a member of the city council of the City of Rusk designated by the mayor.

(b) A nonvoting director is not counted in determining the board quorum.

Sec. 4501.055. VACANCIES. A board vacancy is filled in the same manner as the original appointment.

Sec. 4501.056. VOTING AUTHORITY OF PRESIDENT. The board president is a voting director but may vote only to break a tie. All other voting directors are entitled to one vote on any issue before the board.

Sec. 4501.057. OFFICERS. (a) Each year, the board shall elect from among the voting directors officers for the authority, including a president, a vice president, a secretary, and a treasurer.

(b) The president and the vice president may not be directors appointed by the same city.

[Sections 4501.058-4501.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 4501.101. GENERAL POWERS. The authority has the powers necessary to accomplish any authority purpose, including the purposes specified in Section 4501.003.

Sec. 4501.102. CONTRACT TO MANAGE OR OPERATE AUTHORITY PROPERTY. The authority may contract with any person to manage or operate all or part of authority property.

Sec. 4501.103. COMPETITIVE BIDDING. (a) Except as provided by Subsection (b), the competitive bidding requirements for a municipality under Chapter 252, Local Government Code, apply to the authority.

(b) A contract with a private person under Section 4501.102 or 4501.104(2) is exempt from the competitive bidding requirements of Chapter 252, Local Government Code, or any other statute if the contract:

(1) is entered into before the effective date of the Act creating this chapter;

(2) is conditioned on the passage of the Act creating this chapter; and

(3) is assigned by a party to the contract after the effective date of the Act creating this chapter.

Sec. 4501.104. GENERAL PROPERTY POWERS. The authority may:

(1) acquire, own, lease, operate, construct, maintain, repair, improve, or extend improvements, equipment, or any other property necessary to accomplish an authority purpose; or

(2) lease or otherwise convey authority property to private parties for an authority purpose.

Sec. 4501.105. CONDITIONAL TRANSFER OF PROPERTY. (a) A conveyance of authority property, including a lease, to a private operator or any other person must be conditioned on an obligation that the property must be used as provided by this section.

(b) The conveyance must provide that ownership of authority property automatically reverts to the Parks and Wildlife Department if the authority or a private operator:

(1) does not use the property:

(A) to support the operations of the Texas State Railroad; or

(B) in a manner that primarily promotes a state public interest; or

(2) converts the Texas State Railroad to a static display.

Sec. 4501.106. SURPLUS PROPERTY. The authority, with the consent of the Parks and Wildlife Department, may dispose of surplus property, including by exchanging the surplus property with another person for other property, to improve the quality and usefulness of property used by the authority.

Sec. 4501.107. DISPOSITION OF PUBLIC PARKS AND RECREATIONAL LANDS; EXEMPTION FROM APPLICABILITY OF OTHER LAW. Chapter 253, Local Government Code, and Chapter 26, Parks and Wildlife Code, do not apply to the use, transfer, or other disposition of property by any method:

(1) to the authority by any person; or

(2) by the authority to any person.

Sec. 4501.108. NONPROFIT CORPORATION. (a) The board by resolution may authorize the creation of a nonprofit corporation to assist the authority in implementing a project or providing a service authorized by this chapter.

(b) The nonprofit corporation may implement any project and provide any service authorized by this chapter.

(c) The board shall appoint the board of directors of the nonprofit corporation.

Sec. 4501.109. AUTHORITY TO SUE AND BE SUED; IMMUNITY. (a) The authority may sue and be sued in this state.

(b) This section does not waive any governmental immunity that would otherwise apply to the authority.

[Sections 4501.110-4501.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 4501.151. AD VALOREM TAXES PROHIBITED. The authority may not impose an ad valorem tax.

Sec. 4501.152. GRANTS; DONATIONS. The authority may accept grants and donations, including property, for any authority purpose.

Sec. 4501.153. GRANTS FROM OTHER TAXING AUTHORITY; CONTRACT. (a) A taxing authority in Anderson or Cherokee County may by contract grant to the authority:

(1) sales tax revenue received from a sale made on property owned, controlled, or leased by the authority or by a person with whom the authority contracts under Section 4501.102; or

(2) local hotel occupancy tax revenue received from a hotel located within one mile of a place where the Texas State Railroad loads or unloads passengers.

(b) The grant must serve a public purpose of the taxing authority making the grant.

[Sections 4501.154-4501.200 reserved for expansion]

SUBCHAPTER E. DISSOLUTION

Sec. 4501.201. DISSOLUTION OF AUTHORITY; OUTSTANDING DEBT.

(a) The board may dissolve the authority regardless of whether the authority has debt.

(b) If the authority has debt when it is dissolved, the authority shall remain in existence solely for the purpose of discharging its debts. The dissolution is effective when all debts have been discharged.

SECTION 2. Section 22.182, Parks and Wildlife Code, is repealed.

SECTION 3. (a) Not later than September 1, 2007:

(1) the city council of the City of Palestine shall appoint three voting directors from three persons proposed by the mayor of Palestine to serve as directors under Subchapter B, Chapter 4501, Special District Local Laws Code, as added by this Act; and

(2) the city council of the City of Rusk shall appoint three voting directors from three persons proposed by the mayor of Rusk to serve as directors under Subchapter B, Chapter 4501, Special District Local Laws Code, as added by this Act.

(b) After the directors have been appointed under this section, the directors representing each city shall draw lots to determine which director from each city serves a term expiring:

- (1) September 1, 2008;
- (2) September 1, 2009; and
- (3) September 1, 2010.

(c) Not later than September 30, 2007, the directors appointed under Subsection (a) of this section shall meet in open session and appoint a seventh director. The seventh director shall serve a term expiring October 1, 2010.

SECTION 4. (a) Not earlier than September 1, 2007, and on execution of the requirements of Section 5 of this Act, the following are transferred to the Texas State Railroad Authority:

- (1) the property described by Section 5 of this Act;
- (2) all obligations and liabilities of the Parks and Wildlife Department relating to the Texas State Railroad; and
- (3) all files and other records of the Parks and Wildlife Department kept by the department regarding the Texas State Railroad.

(b) Before September 1, 2007, the Parks and Wildlife Department may agree with the Texas State Railroad Authority to transfer any property of the Parks and Wildlife Department to the Texas State Railroad Authority to implement the transfer required by this Act.

(c) In the period beginning on the effective date of this Act and ending on execution of the requirements of Section 5 of this Act, the Parks and Wildlife Department shall continue to perform functions and activities under Section 22.182, Parks and Wildlife Code, as if that section had not been repealed by this Act, and the former law is continued in effect for that purpose.

SECTION 5. (a) Not later than October 1, 2007, the Parks and Wildlife Department shall transfer to the Texas State Railroad Authority, for the consideration described by Subsection (b) of this section, the property described by Subsection (d) of this section.

(b) Consideration for the transfer authorized by Subsection (a) of this section is an agreement between the parties that requires the Texas State Railroad Authority to use the property in a manner that primarily promotes a state public purpose. If the Texas State Railroad Authority does not use the property transferred under this Act in a manner that primarily promotes a state public interest, ownership of the property automatically reverts to the Parks and Wildlife Department.

(c) The Parks and Wildlife Department shall transfer the property by an appropriate instrument of transfer. The instrument of transfer must include a provision that:

(1) requires the Texas State Railroad Authority to use the property in a manner that primarily promotes a state public purpose;

(2) indicates that ownership of the property automatically reverts to the Parks and Wildlife Department if the Texas State Railroad Authority fails to use the property in that manner;

(3) authorizes the Texas State Railroad Authority to transfer the property to a private operator under conditions as provided by Section 4501.105, Special District Local Laws Code, as added by this Act;

(4) authorizes the Texas State Railroad Authority, with the consent of the Parks and Wildlife Department, to dispose of surplus property as provided by Section 4501.106, Special District Local Laws Code, as added by this Act; and

(5) transfers the right-of-way and trackage of the Texas State Railroad by a 99-year lease or a similar instrument under which fee ownership is retained by the State of Texas.

(d) The property to which Subsection (a) of this section refers is all real and personal property associated with the Texas State Railroad owned by the State of Texas, including:

(1) the right-of-way and trackage of the Texas State Railroad;

(2) all trains and other property used to operate the Texas State Railroad; and

(3) all equipment or other property of the Parks and Wildlife Department used for the administration of or related to the Texas State Railroad.

SECTION 6. The legislature finds that:

(1) proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and laws of this state, including the governor, who has submitted the notice and Act to the Texas Commission on Environmental Quality;

(2) the Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time;

(3) the general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with; and

(4) all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 7. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

The amendment was read.

Senator Nichols moved to concur in the House amendment to **SB 1659**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 288 WITH HOUSE AMENDMENT

Senator Nelson called **SB 288** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 288** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the reporting of health care-associated infections at certain health care facilities and the creation of an advisory panel.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle D, Title 2, Health and Safety Code, is amended by adding Chapter 98 to read as follows:

CHAPTER 98. REPORTING OF HEALTH CARE-ASSOCIATED INFECTIONS **SUBCHAPTER A. GENERAL PROVISIONS**

Sec. 98.001. **DEFINITIONS.** In this chapter:

(1) "Advisory panel" means the Advisory Panel on Health Care-Associated Infections.

(2) "Ambulatory surgical center" means a facility licensed under Chapter 243.

(3) "Commissioner" means the commissioner of state health services.

(4) "Department" means the Department of State Health Services.

(5) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(6) "General hospital" means a general hospital licensed under Chapter 241 or a hospital that provides surgical or obstetrical services and that is maintained or operated by this state. The term does not include a comprehensive medical rehabilitation hospital.

(7) "Health care-associated infection" means a localized or symptomatic condition resulting from an adverse reaction to an infectious agent or its toxins to which a patient is exposed in the course of the delivery of health care to the patient.

(8) "Health care facility" means a general hospital or an ambulatory surgical center.

(9) "Infection rate" means the number of health care-associated infections of a particular type at a health care facility divided by a numerical measure over time of the population at risk for contracting the infection, unless the term is modified by rule of the executive commissioner to accomplish the purposes of this chapter.

(10) "Pediatric and adolescent hospital" has the meaning assigned by Section 241.003.

(11) "Reporting system" means the Texas Health Care-Associated Infection Reporting System.

(12) "Special care setting" means a unit or service of a general hospital that provides treatment to inpatients who require extraordinary care on a concentrated and continuous basis. The term includes an adult intensive care unit, a burn intensive care unit, and a critical care unit.

Sec. 98.002. APPLICABILITY OF OTHER LAW. Chapter 2110, Government Code, does not apply to the advisory panel created under Subchapter B.

[Sections 98.003-98.050 reserved for expansion]

SUBCHAPTER B. ADVISORY PANEL

Sec. 98.051. ESTABLISHMENT. The commissioner shall establish the Advisory Panel on Health Care-Associated Infections within the infectious disease surveillance and epidemiology branch of the department to guide the implementation, development, maintenance, and evaluation of the reporting system.

Sec. 98.052. MEMBERSHIP; TERM. (a) The advisory panel is composed of 16 members as follows:

(1) two infection control professionals who:

(A) are certified by the Certification Board of Infection Control and Epidemiology; and

(B) are practicing in hospitals in this state, at least one of which must be a rural hospital;

(2) two infection control professionals who:

(A) are certified by the Certification Board of Infection Control and Epidemiology; and

(B) are nurses licensed to engage in professional nursing under Chapter 301, Occupations Code;

(3) three board-certified or board-eligible physicians who:

(A) are licensed to practice medicine in this state under Chapter 155, Occupations Code, at least two of whom have active medical staff privileges at a hospital in this state and at least one of whom is a pediatric infectious disease physician with expertise and experience in pediatric health care epidemiology;

(B) are active members of the Society for Healthcare Epidemiology of America; and

(C) have demonstrated expertise in infection control in health care facilities;

(4) two professionals in quality assessment and performance improvement, one of whom is employed by a general hospital and one of whom is employed by an ambulatory surgical center;

(5) one officer of a general hospital;

(6) one officer of an ambulatory surgical center;

(7) three nonvoting members who are department employees representing the department in epidemiology and the licensing of hospitals or ambulatory surgical centers; and

(8) two members who represent the public as consumers.

(b) Members of the advisory panel serve two-year terms.

Sec. 98.053. MEMBER ELIGIBILITY. (a) A person may not be a member of the advisory panel if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to health care.

(b) A person may not be a member of the advisory panel if the person is an officer, employee, or paid consultant of a Texas trade association in the field of health care.

Sec. 98.054. OFFICERS. The members of the advisory panel shall elect a presiding officer and an assistant presiding officer from among the members. The officers serve two-year terms.

Sec. 98.055. COMPENSATION; EXPENSES. Members of the advisory panel serve without compensation but are entitled to reimbursement of the travel expenses incurred by the member while conducting the business of the advisory panel from department funds, in accordance with the General Appropriations Act.

Sec. 98.056. VACANCY. A vacancy on the advisory panel shall be filled by the commissioner.

[Sections 98.057-98.100 reserved for expansion]

SUBCHAPTER C. DUTIES OF DEPARTMENT AND ADVISORY PANEL; REPORTING SYSTEM

Sec. 98.101. RULEMAKING. (a) The executive commissioner may adopt rules for the department to implement this chapter.

(b) The executive commissioner may not adopt rules that conflict with or duplicate any federally mandated infection reporting program or requirement.

Sec. 98.102. DEPARTMENTAL RESPONSIBILITIES; REPORTING SYSTEM. (a) The department shall establish the Texas Health Care-Associated Infection Reporting System within the infectious disease surveillance and epidemiology branch of the department. The purpose of the reporting system is to provide for:

(1) the reporting of health care-associated infections by health care facilities to the department;

(2) the public reporting of information regarding the health care-associated infections by the department; and

(3) the education and training of health care facility staff by the department regarding this chapter.

(b) The reporting system shall provide a mechanism for this state to collect data, at state expense, through a secure electronic interface with health care facilities.

(c) The data reported by health care facilities to the department must contain sufficient patient identifying information to:

(1) avoid duplicate submission of records;

(2) allow the department to verify the accuracy and completeness of the data reported; and

(3) allow the department to risk adjust the facilities' infection rates.

(d) The department shall review the infection control and reporting activities of health care facilities to ensure the data provided by the facilities is valid and does not have unusual data patterns or trends that suggest implausible infection rates.

Sec. 98.103. REPORTABLE INFECTIONS. (a) A health care facility, other than a pediatric and adolescent hospital, shall report to the department the incidence of surgical site infections occurring in the following procedures:

- (1) colon surgeries;
- (2) hip arthroplasties;
- (3) knee arthroplasties;
- (4) abdominal hysterectomies;
- (5) vaginal hysterectomies;
- (6) coronary artery bypass grafts; and
- (7) vascular procedures.

(b) A pediatric and adolescent hospital shall report the incidence of surgical site infections occurring in the following procedures to the department:

- (1) cardiac procedures, excluding thoracic cardiac procedures;
- (2) ventriculoperitoneal shunt procedures; and
- (3) spinal surgery with instrumentation.

(c) A general hospital shall report the following to the department:

- (1) the incidence of laboratory-confirmed central line-associated primary bloodstream infections occurring in any special care setting in the hospital; and
- (2) the incidence of respiratory syncytial virus occurring in any pediatric inpatient unit in the hospital.

(d) The department shall ensure that the health care-associated infections a health care facility is required to report under this section have the meanings assigned by the federal Centers for Disease Control and Prevention.

Sec. 98.104. ALTERNATIVE FOR REPORTABLE SURGICAL SITE INFECTIONS. A health care facility that does not perform at least an average of 50 procedures per month of the procedures listed in Section 98.103(a) or (b), as modified under Section 98.105, is not required to comply with the reporting requirements of Section 98.103 but instead shall report to the department the surgical site infections relating to the three surgical procedures most frequently performed at the facility, based on the list of surgical procedures promulgated by the federal Centers for Disease Control and Prevention's National Healthcare Safety Network or its successor.

Sec. 98.105. REPORTING SYSTEM MODIFICATIONS. Based on the recommendations of the advisory panel, the executive commissioner by rule may modify in accordance with this chapter the list of procedures that are reportable under Section 98.103 or 98.104. The modifications must be based on changes in reporting guidelines and in definitions established by the federal Centers for Disease Control and Prevention.

Sec. 98.106. DEPARTMENTAL SUMMARY. (a) The department shall compile and make available to the public a summary, by health care facility, of the infections reported by facilities under Sections 98.103 and 98.104.

(b) The departmental summary must be risk adjusted and include a comparison of the risk-adjusted infection rates for each health care facility in this state that is required to submit a report under Sections 98.103 and 98.104.

(c) In consultation with the advisory panel, the department shall publish the departmental summary in a format that is easy to read.

(d) The department shall publish the departmental summary at least annually and may publish the summary more frequently as the department considers appropriate.

(e) The executive commissioner by rule shall allow a health care facility to submit concise written comments regarding information contained in the departmental summary that relates to the facility. The department shall attach the facility's comments to the public report and the comments must be in the same format as the summary.

(f) The disclosure of written comments to the department by a health care facility as provided by Subsection (e) does not constitute a waiver of a privilege or protection under Section 98.109.

(g) The department shall make the departmental summary available on an Internet website administered by the department and may make the summary available through other formats accessible to the public. The website must contain a statement informing the public of the option to report suspected health care-associated infections to the department.

Sec. 98.107. EDUCATION AND TRAINING REGARDING REPORTING SYSTEM. The department shall provide education and training for health care facility staff regarding this chapter. The training must be reasonable in scope and focus primarily on:

- (1) the implementation and management of a facility reporting mechanism;
- (2) characteristics of the reporting system, including public reporting by the department and facility reporting to the department;
- (3) confidentiality; and
- (4) legal protections.

Sec. 98.108. FREQUENCY OF REPORTING. In consultation with the advisory panel, the executive commissioner by rule shall establish the frequency of reporting by health care facilities required under Sections 98.103 and 98.104. Facilities may not be required to report more frequently than quarterly.

Sec. 98.109. CONFIDENTIALITY; PRIVILEGE. (a) Except as provided by Sections 98.106 and 98.110, all information and materials obtained or compiled or reported by the department under this chapter or compiled or reported by a health care facility under this chapter, and all related information and materials, are confidential and:

- (1) are not subject to disclosure under Chapter 552, Government Code, or discovery, subpoena, or other means of legal compulsion for release to any person; and
- (2) may not be admitted as evidence or otherwise disclosed in any civil, criminal, or administrative proceeding.

(b) The confidentiality protections under Subsection (a) apply without regard to whether the information or materials are obtained from or compiled or reported by a health care facility or an entity that has an ownership or management interest in a facility.

(c) The transfer of information or materials under this chapter is not a waiver of a privilege or protection granted under law.

(d) The provisions of this section regarding the confidentiality of information or materials compiled or reported by a health care facility in compliance with or as authorized under this chapter do not restrict access, to the extent authorized by law, by the patient or the patient's legally authorized representative to records of the patient's medical diagnosis or treatment or to other primary health records.

(e) A department summary or disclosure may not contain information identifying a facility patient, employee, contractor, volunteer, consultant, health care professional, student, or trainee in connection with a specific infection incident.

Sec. 98.110. DISCLOSURE WITHIN DEPARTMENT. Notwithstanding any other law, the department may disclose information reported by health care facilities under Section 98.103 or 98.104 to other programs within the department for public health research or analysis purposes only, provided that the research or analysis relates to health care-associated infections. The privilege and confidentiality provisions contained in this chapter apply to such disclosures.

Sec. 98.111. CIVIL ACTION. Published infection rates may not be used in a civil action to establish a standard of care applicable to a health care facility.

[Sections 98.112-98.150 reserved for expansion]

SUBCHAPTER D. ENFORCEMENT

Sec. 98.151. VIOLATIONS. (a) Except as provided by Subsection (b), a general hospital that violates this chapter or a rule adopted under this chapter is subject to the enforcement provisions of Subchapter C, Chapter 241, and rules adopted and enforced under that subchapter as if the hospital violated Chapter 241 or a rule adopted under that chapter.

(b) Subsection (a) does not apply to a comprehensive medical rehabilitation hospital as defined in Section 241.003.

(c) An ambulatory surgical center that violates this chapter or a rule adopted under this chapter is subject to the enforcement provisions of Chapter 243 and rules adopted and enforced under that chapter as if the center violated Chapter 243 or a rule adopted under that chapter.

SECTION 2. Not later than June 1, 2008, the Department of State Health Services shall establish the Texas Health Care-Associated Infection Reporting System as required under Chapter 98, Health and Safety Code, as added by this Act.

SECTION 3 (a) As soon as practicable after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall adopt the rules and procedures necessary to implement Chapter 98, Health and Safety Code, as added by this Act.

(b) As soon as practicable after the effective date of this Act, the commissioner of state health services shall appoint members to the Advisory Panel on Health Care-Associated Infections as required by Chapter 98, Health and Safety Code, as added by this Act.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

The amendment was read.

Senator Nelson moved to concur in the House amendment to **SB 288**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 291 WITH HOUSE AMENDMENTS

Senator Nelson called **SB 291** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Amendment

Amend **SB 291** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to criminal history record information for guardianship proceedings and to lists of certain public guardians; providing a criminal penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Section 697A, Texas Probate Code, is amended to read as follows:

Sec. 697A. LIST OF CERTAIN PUBLIC GUARDIANS MAINTAINED BY COUNTY CLERKS OR GUARDIANSHIP CERTIFICATION BOARD.

SECTION 2. Subsections (b) and (c), Section 697A, Texas Probate Code, are amended to read as follows:

(b) Not later than February 1 of each year, the [The] Department of Aging and Disability Services~~[, if the department files an application for and is appointed to serve as guardian for one or more incapacitated persons residing in the county as provided by Subchapter E, Chapter 161, Human Resources Code,]~~ shall submit ~~[annually]~~ to the Guardianship Certification Board a statement containing:

(1) the name, address, and telephone number of each department employee who is or will be providing guardianship services to a ward or proposed ward on behalf of the department; and

(2) the name of the county or counties in which each employee named in Subdivision (1) of this subsection is providing or is authorized to provide those services ~~[county clerk the information required under Subsection (a) of this section for each department employee who is or will be providing guardianship services in the county on the department's behalf].~~

(c) Not later than February 1 of each year, the county clerk shall submit to the Guardianship Certification Board the information received under Subsection (a) of this section during the preceding year.

SECTION 3. Section 698, Texas Probate Code, is amended to read as follows:

Sec. 698. ACCESS TO CRIMINAL HISTORY RECORDS. (a) Except as provided by Subsections (a-1) and (a-5) of this section, the [The] clerk of the county having venue over the proceeding for the appointment of a guardian shall obtain criminal history record information that is maintained by the Department of Public Safety or the Federal Bureau of Investigation identification division relating to:

- (1) a private professional guardian;
- (2) each person who represents or plans to represent the interests of a ward as a guardian on behalf of the private professional guardian;
- (3) each person employed by a private professional guardian who will:
 - (A) have personal contact with a ward or proposed ward;
 - (B) exercise control over and manage a ward's estate; or
 - (C) perform any duties with respect to the management of a ward's estate;

(4) each person employed by or volunteering or contracting with a guardianship program to provide guardianship services to a ward of the program on the program's behalf; or

(5) any other person proposed to serve as a guardian under this chapter, including a proposed temporary guardian and a proposed successor guardian ~~an employee of the Department of Aging and Disability Services who is or will be providing guardianship services to a ward of the department~~.

(a-1) The Department of Aging and Disability Services shall obtain criminal history record information that is maintained by the Department of Public Safety or the Federal Bureau of Investigation identification division relating to each individual who is or will be providing guardianship services to a ward of or referred by the department, including:

(1) an employee of or an applicant selected for an employment position with the Department of Aging and Disability Services;

(2) a volunteer or an applicant selected to volunteer with the Department of Aging and Disability Services;

(3) an employee of or an applicant selected for an employment position with a business entity or other person that contracts with the Department of Aging and Disability Services to provide guardianship services to a ward referred by the department; and

(4) a volunteer or an applicant selected to volunteer with a business entity or other person described by Subdivision (3) of this subsection.

(a-2) The information in Subsection (a-1) of this section regarding applicants for employment positions must be obtained before an offer of employment, and the information regarding applicant volunteers must be obtained before the person's contact with a ward of or referred by the Department of Aging and Disability Services.

(a-3) The information in Subsection (a-1) of this section regarding employees or volunteers providing guardianship services must be obtained annually.

(a-4) The Department of Aging and Disability Services shall provide the information obtained under Subsection (a-1) of this section to:

(1) the clerk of the county having venue over the guardianship proceeding at the request of the court; and

(2) the Guardianship Certification Board at the request of the board.

(a-5) Not later than the 10th day before the date of the hearing to appoint a guardian, a person may submit to the clerk a copy of the person's criminal history record information required under Subsection (a)(5) of this section that the person obtains from the Department of Public Safety or the Federal Bureau of Investigation not earlier than the 30th day before the date of the hearing.

(b) The criminal history record information obtained under Subsection (a) or (a-5) of this section is for the exclusive use of the court and is privileged and confidential. The criminal history record information may not be released or otherwise disclosed to any person or agency except on court order or consent of the person being investigated. The county clerk may destroy the criminal history information records after the records are used for the purposes authorized by this section.

(b-1) The criminal history record information obtained under Subsection (a-4) of this section is for the exclusive use of the court or Guardianship Certification Board, as appropriate, and is privileged and confidential. The information may not be released or otherwise disclosed to any person or agency except on court order or consent of the person being investigated. The county clerk or Guardianship Certification Board may destroy the criminal history record information after the information is used for the purposes authorized by this section.

(c) The court shall use the information obtained under this section only in determining whether to:

(1) appoint, remove, or continue the appointment of a private professional guardian, a guardianship program, or the Department of Aging and Disability Services; or

(2) appoint any other person proposed to serve as a guardian under this chapter, including a proposed temporary guardian and a proposed successor guardian.

(c-1) Criminal history record information obtained by the Guardianship Certification Board under Subsection (a-4)(2) of this section may be used for any purpose related to the issuance, denial, renewal, suspension, or revocation of a certificate issued by the board.

(d) A person commits an offense if the person releases or discloses any information received under this section without the authorization prescribed by Subsection (b) or (b-1) of this section. An offense under this subsection is a Class A misdemeanor.

(e) The clerk may charge a \$10 ~~reasonable~~ fee ~~sufficient~~ to recover the costs of obtaining criminal history information records authorized by Subsection (a) of this section.

(f) This section does not prohibit the Department of Aging and Disability Services from obtaining and using criminal history record information as provided by other law.

SECTION 4. Section 411.1386, Government Code, is amended to read as follows:

Sec. 411.1386. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: COURT CLERK; DEPARTMENT OF AGING AND DISABILITY SERVICES; GUARDIANSHIPS. (a) Except as provided by Subsections (a-1) and (a-5), the ~~The~~ clerk of the county having venue over a

proceeding for the appointment of a guardian under Chapter XIII ~~[13]~~, Texas Probate Code, shall ~~[is entitled to]~~ obtain from the department criminal history record information maintained by the department that relates to:

- (1) a private professional guardian;
- (2) each person who represents or plans to represent the interests of a ward as a guardian on behalf of the private professional guardian; ~~[or]~~
- (3) each person employed by a private professional guardian who will:
 - (A) have personal contact with a ward or proposed ward;
 - (B) exercise control over and manage a ward's estate; or
 - (C) perform any duties with respect to the management of a ward's estate;

(4) each person employed by or volunteering or contracting with a guardianship program to provide guardianship services to a ward of the program on the program's behalf; or

(5) any other person proposed to serve as a guardian under Chapter XIII, Texas Probate Code, including a proposed temporary guardian and a proposed successor guardian.

(a-1) The Department of Aging and Disability Services shall obtain from the Department of Public Safety criminal history record information maintained by the Department of Public Safety that relates to each individual who is or will be providing guardianship services to a ward of or referred by the Department of Aging and Disability Services, including:

(1) an employee of or an applicant selected for an employment position with the Department of Aging and Disability Services;

(2) a volunteer or an applicant selected to volunteer with the Department of Aging and Disability Services;

(3) an employee of or an applicant selected for an employment position with a business entity or other person that contracts with the Department of Aging and Disability Services to provide guardianship services to a ward referred by the department; and

(4) a volunteer or an applicant selected to volunteer with a business entity or person described by Subdivision (3).

(a-2) The information in Subsection (a-1) regarding applicants for employment positions must be obtained before an offer of employment, and the information regarding applicant volunteers must be obtained before the person's contact with a ward of or referred by the Department of Aging and Disability Services.

(a-3) The information in Subsection (a-1) regarding employees or volunteers providing guardianship services must be obtained annually.

(a-4) The Department of Aging and Disability Services shall provide the information obtained under Subsection (a-1) to:

(1) the clerk of the county having venue over the guardianship proceeding at the request of the court; and

(2) the Guardianship Certification Board at the request of the board.

(a-5) Not later than the 10th day before the date of the hearing to appoint a guardian, a person may submit to the clerk a copy of the person's criminal history record information required under Subsection (a)(5) that the person obtains from the department not earlier than the 30th day before the date of the hearing.

(b) Criminal history record information obtained by a clerk under Subsection (a) or (a-5) is for the exclusive use of the court and is privileged and confidential [may be used only in determining whether to appoint, remove, or continue the appointment of a private professional guardian].

(c) Criminal history record information obtained by a clerk under Subsection (a) or (a-5) may not be released or disclosed to any person or agency except on court order or with the consent of the person who is the subject of the information. The clerk may destroy the criminal history record information after the information is used for the purposes authorized by this section.

(d) The criminal history record information obtained under Subsection (a-4) is for the exclusive use of the court or Guardianship Certification Board, as appropriate, and is privileged and confidential. The information may not be released or otherwise disclosed to any person or agency except on court order or consent of the person being investigated. The county clerk or Guardianship Certification Board may destroy the criminal history record information after the information is used for the purposes authorized by this section.

(e) The court, as that term is defined by Section 601, Texas Probate Code, shall use the information obtained under Subsection (a), (a-4)(1), or (a-5) only in determining whether to:

(1) appoint, remove, or continue the appointment of a private professional guardian, a guardianship program, or the Department of Aging and Disability Services; or

(2) appoint any other person proposed to serve as a guardian under Chapter XIII, Texas Probate Code, including a proposed temporary guardian and a proposed successor guardian.

(f) Criminal history record information obtained by the Guardianship Certification Board under Subsection (a-4)(2) may be used for any purpose related to the issuance, denial, renewal, suspension, or revocation of a certificate issued by the board.

(g) A person commits an offense if the person releases or discloses any information received under this section without the authorization prescribed by Subsection (c) or (d). An offense under this subsection is a Class A misdemeanor.

(h) The county clerk may charge a \$10 fee to recover the costs of obtaining criminal history information records authorized by Subsection (a).

(i) This section does not prohibit the Department of Aging and Disability Services from obtaining and using criminal history record information as provided by other law.

SECTION 5. The change in law made by this Act:

(1) by the amendment of Section 411.1386(a), Government Code, other than the addition of Subdivision (5) to that section, is made to conform to Section 698(a), Texas Probate Code, as that section existed immediately before the effective date of this Act;

(2) by the amendment of Sections 411.1386(b) and (c), Government Code, and the addition of Section 411.1386(e), Government Code, other than the addition of Subdivision (2) and the reference to Sections 411.1386(a-4)(1) and (a-5), Government Code, is made to conform to Sections 698(b) and (c), Texas Probate Code, as those sections existed immediately before the effective date of this Act; and

(3) by the addition of Section 411.1386(g), Government Code, other than the addition of the reference to Section 411.1386(d), Government Code, is made to conform to Section 698(d), Texas Probate Code, as that section existed immediately before the effective date of this Act.

SECTION 6. This Act takes effect September 1, 2007.

Floor Amendment No. 1

Amend **CSSB 291** (House committee report) as follows:

(1) In SECTION 3 of the bill, in Subsection (a), Section 698, Texas Probate Code (page 3, lines 5 through 9), strike amended Subdivision (5) and substitute the following:

(5) any other person proposed to serve as a guardian under this chapter, including a proposed temporary guardian and a proposed successor guardian, other than the ward's or proposed ward's family member or an attorney [an employee of the Department of Aging and Disability Services who is or will be providing guardianship services to a ward of the department].

(2) In SECTION 3 of the bill, in added Paragraph (2), Subsection (c), Section 698, Texas Probate Code (page 5, line 22), between "guardian" and the period, insert ", other than the ward's or proposed ward's family member or an attorney".

(3) In SECTION 4 of the bill, in added Subdivision (5), Subsection (a), Section 411.1386, Government Code (page 7, line 11), between "guardian" and the period, insert ", other than the ward's or proposed ward's family member or an attorney".

(4) In SECTION 4 of the bill, in added Paragraph (2), Subsection (e), Section 411.1386, Government Code (page 9, line 23), between "guardian" and the underlined period, insert ", other than the ward's or proposed ward's family member or an attorney".

The amendments were read.

Senator Nelson moved to concur in the House amendments to **SB 291**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 796 WITH HOUSE AMENDMENTS

Senator Janek called **SB 796** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Amendment

Amend **SB 796** by substituting in lieu thereof the following

A BILL TO BE ENTITLED AN ACT

relating to split payments of ad valorem taxes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 31.03, Tax Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) Except as provided by Subsection (d), the [The] split-payment option, if adopted, applies to taxes for all units for which the adopting taxing unit collects taxes.

(d) The governing body of a taxing unit that has its taxes collected by another taxing unit that has adopted the split-payment option under Subsection (a) may provide, in the manner required by law for official action by the body, that the split-payment option does not apply to the taxing unit's taxes collected by the other taxing unit.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

Floor Amendment No. 1

Amend **CSSB 796** (House committee printing), in SECTION 1 of the bill, proposed Section 31.03(d), Tax Code (on page 1, line 9), between "(d)" and "The governing", by inserting "This subsection applies only to a taxing unit located in a county having a population of 250,000 or more that borders a county having a population of 3.3 million or more and the Gulf of Mexico."

The amendments were read.

Senator Janek moved to concur in the House amendments to **SB 796**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 680 WITH HOUSE AMENDMENT

Senator Williams called **SB 680** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 680** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to certain swimming pools as public nuisances in the unincorporated areas of counties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 343.011(c), Health and Safety Code, is amended to read as follows:

(c) A public nuisance is:

(1) keeping, storing, or accumulating refuse on premises in a neighborhood unless the refuse is entirely contained in a closed receptacle;

(2) keeping, storing, or accumulating rubbish, including newspapers, abandoned vehicles, refrigerators, stoves, furniture, tires, and cans, on premises in a neighborhood or within 300 feet of a public street for 10 days or more, unless the rubbish or object is completely enclosed in a building or is not visible from a public street;

(3) maintaining premises in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or disease-carrying pests;

(4) allowing weeds to grow on premises in a neighborhood if the weeds are located within 300 feet of another residence or commercial establishment;

(5) maintaining a building in a manner that is structurally unsafe or constitutes a hazard to safety, health, or public welfare because of inadequate maintenance, unsanitary conditions, dilapidation, obsolescence, disaster, damage, or abandonment or because it constitutes a fire hazard;

(6) ~~maintaining on abandoned and unoccupied property in a neighborhood~~
~~or maintaining on any property in a neighborhood in a county with a population of more than 1.1 million,~~ a swimming pool that is not protected with:

(A) a fence that is at least four feet high and that has a latched and locked gate ~~[that cannot be opened by a child]; and [or]~~

(B) a cover over the entire swimming pool that cannot be removed by a child;

(7) maintaining on any property in a neighborhood in a county with a population of more than 1.1 million a swimming pool that is not protected with:

(A) a fence that is at least four feet high and that has a latched gate that cannot be opened by a child; or

(B) a cover over the entire swimming pool that cannot be removed by a child;

(8) maintaining a flea market in a manner that constitutes a fire hazard;

(9) ~~(8)~~ discarding refuse or creating a hazardous visual obstruction on:

(A) county-owned land; or

(B) land or easements owned or held by a special district that has the commissioners court of the county as its governing body;

(10) ~~(9)~~ discarding refuse on the smaller of:

(A) the area that spans 20 feet on each side of a utility line; or

(B) the actual span of the utility easement; or

(11) ~~(10)~~ filling or blocking a drainage easement, failing to maintain a drainage easement, maintaining a drainage easement in a manner that allows the easement to be clogged with debris, sediment, or vegetation, or violating an agreement with the county to improve or maintain a drainage easement.

SECTION 2. Sections 343.013(c) and (d), Health and Safety Code, are amended to read as follows:

(c) A county may bring suit under this section to prohibit or control access to the premises to prevent a continued or future violation of Section 343.011(c)(1), (6), (9) ~~(8)~~, or (10) ~~(9)~~. The court may grant relief under this subsection only if the county demonstrates that:

(1) the person responsible for causing the public nuisance has not responded sufficiently to previous attempts to abate a nuisance on the premises, if the relief sought prohibits or controls access of a person other than the owner; or

(2) the owner of the premises knew about the nuisance and has not responded sufficiently to previous attempts to abate a nuisance on the premises, if the relief sought controls access of the owner.

(d) In granting relief under Subsection (c), the court:

(1) may not, in a suit brought under Section 343.011(c)(10) ~~[343.011(c)(9)]~~, prohibit or control access by the owner or operator of a utility line or utility easement to that utility line or utility easement; and

(2) may not prohibit the owner of the premises from accessing the property but may prohibit a continued or future violation.

SECTION 3. Section 343.021, Health and Safety Code, is amended to read as follows:

Sec. 343.021. AUTHORITY TO ABATE NUISANCE. If a county adopts abatement procedures that are consistent with the general purpose of this chapter and that conform to this chapter, the [A] county may abate a nuisance under this chapter:

(1) by demolition or removal;

(2) ~~or,~~ in the case of a nuisance under Section 343.011(c)(1), (9) ~~[(8)]~~, or (10) ~~[(9)]~~, by prohibiting or controlling ~~[prohibition or control of]~~ access to the premises; or

(3) in the case of a nuisance under Section 343.011(c)(6), by:

(A) prohibiting or controlling access to the premises and installing a cover that cannot be opened by a child over the entire swimming pool; or

(B) draining and filling the swimming pool ~~[if the county adopts abatement procedures that are consistent with the general purpose of this chapter and that conform to this chapter].~~

SECTION 4. Section 343.022, Health and Safety Code, is amended by amending Subsections (a), (c), and (e) and adding Subsection (f) to read as follows:

(a) The abatement procedures adopted by the commissioners court must be administered by a regularly salaried, full-time county employee, but the prohibition or control of access to the premises to prevent a violation of Section 343.011(c)(1), (6), (9) ~~[(8)]~~, or (10) ~~[(9)]~~, or the removal or demolition of the nuisance, may be made by a person authorized by the person administering the abatement program.

(c) The notice must state:

(1) the specific condition that constitutes a nuisance;

(2) that the person receiving notice shall abate the nuisance before the:

(A) 31st day after the date on which the notice is served, if the person has not previously received a notice regarding a nuisance on the premises; or

(B) 10th business day after the date on which the notice is served, if the person has previously received a notice regarding a nuisance on the premises;

(3) that failure to abate the nuisance may result in:

(A) abatement by the county;

(B) assessment of costs to the person responsible for causing the nuisance when that person can be identified; and

(C) a lien against the property on which the nuisance exists, if the person responsible for causing the nuisance has an interest in the property;

(4) that the county may prohibit or control access to the premises to prevent a continued or future nuisance described by Section 343.011(c)(1), (6), (9) [(8)], or (10) [(9)]; and

(5) that the person receiving notice is entitled to submit a written request for a hearing before the:

(A) 31st day after the date on which the notice is served, if the person has not previously received a notice regarding a nuisance on the premises; or

(B) 10th business day after the date on which the notice is served, if the person has previously received a notice regarding a nuisance on the premises.

(e) Except as provided in Subsection (f), the [The] abatement procedures must require a hearing before the county abates the nuisance if a hearing is requested. The hearing may be conducted before the commissioners court or any board, commission, or official designated by the commissioners court. The commissioners court may designate a board, commission, or official to conduct each hearing.

(f) A county may, before conducting a hearing, abate a nuisance under Section 343.011(c)(6) by prohibiting or controlling access to the premises on which the nuisance is located and installing a cover that cannot be opened by a child over the entire swimming pool, but only if the county conducts a hearing otherwise in accordance with Subsection (e) after the nuisance is abated.

SECTION 5. Section 343.0235, Health and Safety Code, is amended to read as follows:

Sec. 343.0235. USE OF COUNTY FUNDS. A county is entitled to use any money available under other law for a cleanup or remediation of private property to abate a nuisance described by Section 343.011(c)(1), (9) [(8)], or (10) [(9)].

SECTION 6. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

The amendment was read.

Senator Williams moved to concur in the House amendment to **SB 680**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1502 WITH HOUSE AMENDMENT

Senator Zaffirini called **SB 1502** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 1502** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the adoption, increase, or abolition of a sales and use tax by an emergency services district.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 775.0751, Health and Safety Code, is amended by amending Subsections (c) and (d) and adding Subsection (c-1) to read as follows:

(c) Except as provided by Subsection (c-1), a [A] district may not adopt a tax under this section or increase the rate of the tax if as a result of the adoption of the tax or the tax increase the combined rate of all sales and use taxes imposed by the district and other political subdivisions of this state having territory in the district would exceed two percent at any location in the district.

(c-1) A district that otherwise would be precluded from adopting a sales and use tax under Subsection (c) may adopt a sales and use tax, change the rate of its sales and use tax, or abolish its sales and use tax at an election held as provided by Section 775.0752, if the board:

(1) excludes from the election and the applicability of any proposed sales and use tax any territory in the district where the sales and use tax is then at two percent; and

(2) not later than the 30th day after the date on which the board issues the election order, gives, for informational purposes, written or oral notice on the proposed imposition, increase, or abolition of the sales and use tax, including the reasons for the proposed change, to the commissioners court of each county in which the district is located.

(d) If the voters of a district approve the adoption of the tax or an increase in the tax rate at an election held on the same election date on which another political subdivision of this state adopts a sales and use tax or approves the increase in the rate of its sales and use tax and as a result the combined rate of all sales and use taxes imposed by the district and other political subdivisions of this state having territory in the portion of the district in which the district sales and use tax will apply would exceed two percent at any location in that portion of the district, the election to adopt a sales and use tax or to increase the rate of the sales and use tax in the district under this subchapter has no effect.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

The amendment was read.

Senator Zaffirini moved to concur in the House amendment to **SB 1502**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE ON HOUSE BILL 1270

Senator Van de Putte called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1270** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer, Senator Brimer in Chair, asked if there were any motions to instruct the conference committee on **HB 1270** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Van de Putte, Chair; Shapiro, Janek, Averitt, and Zaffirini.

SENATE BILL 1867 WITH HOUSE AMENDMENTS

Senator Zaffirini called **SB 1867** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Floor Amendment No. 1 on Third Reading

Amend **SB 1867** on third reading by adding the following appropriately numbered SECTION to read as follows and renumbering subsequent SECTIONS accordingly:

SECTION _____. Subchapter E, Chapter 232, Local Government Code, is amended by adding Sections 232.108 and 232.109 to read as follows:

Sec. 232.108. PLAT REQUIREMENTS. (a) The commissioners court, in addition to having the authority to adopt rules under Section 232.101 and other authority granted by this chapter, may impose the plat requirements prescribed by Section 232.023. If the commissioners court imposes the plat requirements prescribed by Section 232.023, any rules adopted under Section 232.101 must be consistent with those requirements.

(b) If a county imposing the plat requirements prescribed by Section 232.023 is not described by Section 232.022(a):

(1) the document required by Section 232.023(b)(6) is not required to be in Spanish; and

(2) the plat requirements related to drainage shall be those authorized by Section 232.003(8) rather than those authorized by Section 232.023(b)(8).

Sec. 232.109. FIRE SUPPRESSION SYSTEM. In a subdivision that is not served by fire hydrants as part of a centralized water system certified by the Texas Commission on Environmental Quality as meeting minimum standards for water utility service, the commissioners court may require a limited fire suppression system that requires a developer to construct:

(1) for a subdivision of fewer than 50 houses, 2,500 gallons of storage; or

(2) for a subdivision of 50 or more houses, 2,500 gallons of storage with a centralized water system or 5,000 gallons of storage.

SECTION _____. Section 232.100, Local Government Code, is repealed.

Floor Amendment No. 2 on Third Reading

Amend **SB 1867** on third reading by adding the following appropriately numbered SECTION to read as follows and renumbering subsequent SECTIONS accordingly:

SECTION _____. Section 232.101(b), Local Government Code, is amended to read as follows:

(b) Unless otherwise authorized by state law, a commissioners court shall not regulate under this section:

(1) the use of any building or property for business, industrial, residential, or other purposes;

(2) the bulk, height, or number of buildings constructed on a particular tract of land;

(3) the size of a building that can be constructed on a particular tract of land, including without limitation and restriction on the ratio of building floor space to the land square footage; ~~[or]~~

(4) the number of residential units that can be built per acre of land;

(5) a plat or subdivision in an adjoining county; or

(6) road access to a plat or subdivision in an adjoining county.

The amendments were read.

Senator Zaffirini moved to concur in the House amendments to **SB 1867**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 66 WITH HOUSE AMENDMENT

Senator Zaffirini called **SB 66** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 66** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS accordingly:

SECTION _____. Subchapter A, Chapter 143, Agriculture Code, is amended by adding Section 143.003 to read as follows:

Sec. 143.003. CATTLE ON COUNTY ROAD WITH CATTLE GUARD. Cattle on a county road are not considered to be running at large if the county road:

(1) separates two tracts of land under common ownership or lease; and

(2) contains a cattle guard constructed as authorized under Section 251.009, Transportation Code, that serves as part of the fencing of the two tracts.

The amendment was read.

Senator Zaffirini moved to concur in the House amendment to **SB 66**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE

SENATE JOINT RESOLUTION 57 ON SECOND READING

On motion of Senator Williams and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSJR 57** at this time on its second reading:

CSSJR 57, Proposing a constitutional amendment providing for the issuance of general obligation bonds to finance educational loans to students and for authority to enter into bond enhancement agreements with respect to general obligation bonds issued for that purpose.

The resolution was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent: Ogden.

**COMMITTEE SUBSTITUTE
SENATE JOINT RESOLUTION 57 ON THIRD READING**

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSJR 57** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Ogden.

The resolution was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**SENATE RULES SUSPENDED
(Posting Rules)**

On motion of Senator West and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Intergovernmental Relations might meet and consider the following bills today:

HB 2782, HB 3988, HB 3989, HB 3998, HB 4016, HB 4017, HB 4018, HB 4046, HB 4056, HB 4073, HB 4079, HB 4083, HB 4084, HB 4104, HB 1742, HB 3038, HB 4113.

**SENATE RULES SUSPENDED
(Posting Rules)**

On motion of Senator Duncan and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on State Affairs might meet and consider the following bills tomorrow:

SB 2041, HB 1847, HB 1977, HB 2467.

**SENATE RULES SUSPENDED
(Posting Rules)**

On motion of Senator Lucio and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on International Relations and Trade might meet and consider the following bills at his desk today:

HB 2235, HB 3594.

**SENATE RULES SUSPENDED
(Posting Rules)**

On motion of Senator Gallegos and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Subcommittee on Flooding and Evacuations might meet and consider the following bills today:

SB 1228, SB 1583, HB 3698.

SENATE RULES SUSPENDED
(Posting Rules)

On motion of Senator Zaffirini and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Subcommittee on Higher Education might meet and consider the following bills tomorrow:

HB 1250, HB 1427, HB 3114, HB 3236, HB 3449, HB 3851, HB 589, HB 1213, SB 2049.

SENATE RULES SUSPENDED
(Posting Rules)

On motion of Senator Ellis and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Government Organization might meet and consider the following bills today: **HB 2426, HB 3560.**

SENATE RULE 11.10(a) SUSPENDED
(Public Notice of Committee Meetings)

On motion of Senator Watson and by unanimous consent, Senate Rule 11.10(a) was suspended in order that the Committee on Natural Resources might meet today at Senator Averitt's desk.

SENATE RULES SUSPENDED
(Posting Rules)

On motion of Senator Fraser and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Business and Commerce might meet and consider **HB 3440** today.

HOUSE BILLS AND RESOLUTION ON FIRST READING

The following bills and resolution received from the House were read first time and referred to the committees indicated:

HB 52 to Committee on Health and Human Services.

HB 448 to Committee on Jurisprudence.

HB 555 to Committee on Jurisprudence.

HB 1646 to Committee on Jurisprudence.

HB 1747 to Committee on Health and Human Services.

HB 1775 to Subcommittee on Higher Education.

HB 1919 to Committee on State Affairs.

HB 2216 to Committee on Transportation and Homeland Security.

HB 2403 to Committee on Intergovernmental Relations.

HB 3147 to Committee on Business and Commerce.

HB 3609 to Committee on Administration.

HJR 30 to Committee on State Affairs.

SENATE RULE 11.13 SUSPENDED
(Consideration of Bills in Committees)

On motion of Senator Eltife and by unanimous consent, Senate Rule 11.13 was suspended to grant all committees permission to meet while the Senate was meeting today.

MOTION TO ADJOURN

On motion of Senator Whitmire and by unanimous consent, the Senate at 2:41 p.m. agreed to adjourn, upon completion of the introduction of bills and resolutions on first reading, until 11:00 a.m. tomorrow.

AT EASE

The Presiding Officer, Senator Brimer in Chair, at 2:42 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

IN LEGISLATIVE SESSION

The President at 8:23 p.m. called the Senate to order as In Legislative Session.

SENATE BILLS AND RESOLUTION ON FIRST READING

The following bills and resolution, filed on or before Friday, March 9, 2007, were introduced, read first time, and referred to the committees indicated:

SB 165 by Carona

Relating to the rate of the state gasoline tax and diesel fuel taxes.
To Committee on Transportation and Homeland Security.

SB 628 by Carona

Relating to expanding the application of the Texas Residential Construction Commission Act to include condominium apartments.
To Committee on Business and Commerce.

SJR 25 by Carona

Proposing a constitutional amendment authorizing the legislature to dedicate certain motor fuel taxes to the Texas mobility fund.
To Committee on Transportation and Homeland Security.

HOUSE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions received from the House were read first time and referred to the committees indicated:

HB 12 to Committee on Finance.

HB 14 to Committee on Finance.

HB 89 to Committee on State Affairs.

HB 152 to Committee on Natural Resources.

HB 209 to Subcommittee on Higher Education.

HB 278 to Committee on Criminal Justice.

HB 283 to Committee on Health and Human Services.

HB 289 to Committee on Health and Human Services.

HB 315 to Committee on Criminal Justice.

HB 345 to Committee on Finance.

HB 358 to Committee on Finance.

HB 405 to Committee on Health and Human Services.

HB 408 to Committee on Intergovernmental Relations.

HB 430 to Committee on Criminal Justice.

HB 431 to Committee on Criminal Justice.

HB 454 to Committee on Education.

HB 470 to Committee on Intergovernmental Relations.
HB 525 to Committee on Jurisprudence.
HB 539 to Committee on Intergovernmental Relations.
HB 541 to Committee on Criminal Justice.
HB 544 to Subcommittee on Higher Education.
HB 573 to Committee on Intergovernmental Relations.
HB 586 to Committee on Transportation and Homeland Security.
HB 615 to Committee on Intergovernmental Relations.
HB 646 to Committee on Finance.
HB 649 to Committee on Criminal Justice.
HB 670 to Committee on Jurisprudence.
HB 773 to Committee on Jurisprudence.
HB 777 to Committee on Criminal Justice.
HB 778 to Committee on Jurisprudence.
HB 831 to Committee on Intergovernmental Relations.
HB 866 to Committee on Intergovernmental Relations.
HB 1035 to Committee on Criminal Justice.
HB 1084 to Committee on Finance.
HB 1111 to Committee on Criminal Justice.
HB 1113 to Committee on Criminal Justice.
HB 1121 to Committee on Criminal Justice.
HB 1123 to Committee on Criminal Justice.
HB 1166 to Committee on Business and Commerce.
HB 1168 to Committee on Health and Human Services.
HB 1205 to Committee on Business and Commerce.
HB 1264 to Committee on Criminal Justice.
HB 1267 to Committee on Criminal Justice.
HB 1275 to Committee on Veteran Affairs and Military Installations.
HB 1357 to Committee on Criminal Justice.
HB 1370 to Committee on Health and Human Services.
HB 1385 to Committee on Health and Human Services.
HB 1431 to Subcommittee on Higher Education.
HB 1432 to Committee on Education.
HB 1435 to Committee on Education.
HB 1456 to Committee on Intergovernmental Relations.
HB 1458 to Committee on Finance.
HB 1481 to Committee on Jurisprudence.
HB 1503 to Committee on Criminal Justice.
HB 1606 to Committee on Finance.
HB 1613 to Committee on State Affairs.
HB 1614 to Committee on Health and Human Services.
HB 1637 to Committee on Intergovernmental Relations.
HB 1658 to Committee on Criminal Justice.
HB 1671 to Committee on Intergovernmental Relations.
HB 1673 to Committee on Natural Resources.
HB 1675 to Committee on Education.

HB 1680 to Committee on Intergovernmental Relations.
HB 1687 to Committee on Criminal Justice.
HB 1749 to Committee on Business and Commerce.
HB 1757 to Committee on Transportation and Homeland Security.
HB 1786 to Committee on Health and Human Services.
HB 1795 to Committee on Business and Commerce.
HB 1801 to Committee on Criminal Justice.
HB 1815 to Committee on Criminal Justice.
HB 1833 to Committee on Government Organization.
HB 1849 to Committee on State Affairs.
HB 1903 to Committee on Jurisprudence.
HB 1915 to Committee on Natural Resources.
HB 1960 to Committee on Jurisprudence.
HB 1978 to Committee on State Affairs.
HB 1993 to Committee on Jurisprudence.
HB 1997 to Committee on Criminal Justice.
HB 2001 to Committee on Natural Resources.
HB 2034 to Committee on Health and Human Services.
HB 2043 to Committee on Criminal Justice.
HB 2063 to Committee on Intergovernmental Relations.
HB 2074 to Subcommittee on Higher Education.
HB 2078 to Committee on Jurisprudence.
HB 2091 to Committee on Intergovernmental Relations.
HB 2099 to Committee on Intergovernmental Relations.
HB 2100 to Committee on Criminal Justice.
HB 2167 to Committee on Finance.
HB 2184 to Committee on Intergovernmental Relations.
HB 2201 to Committee on Jurisprudence.
HB 2207 to Committee on Jurisprudence.
HB 2256 to Committee on Health and Human Services.
HB 2283 to Committee on Intergovernmental Relations.
HB 2285 to Committee on Health and Human Services.
HB 2293 to Committee on Government Organization.
HB 2300 to Committee on Criminal Justice.
HB 2365 to Committee on State Affairs.
HB 2383 to Committee on Education.
HB 2385 to Committee on Criminal Justice.
HB 2399 to Committee on Education.
HB 2402 to Committee on Intergovernmental Relations.
HB 2414 to Committee on Natural Resources.
HB 2460 to Committee on Government Organization.
HB 2493 to Committee on State Affairs.
HB 2496 to Committee on Finance.
HB 2498 to Committee on Criminal Justice.
HB 2501 to Committee on Jurisprudence.
HB 2529 to Committee on Education.

HB 2532 to Committee on Education.
HB 2540 to Committee on Health and Human Services.
HB 2557 to Committee on Transportation and Homeland Security.
HB 2560 to Committee on Education.
HB 2561 to Committee on Natural Resources.
HB 2563 to Committee on Education.
HB 2564 to Committee on State Affairs.
HB 2566 to Committee on Criminal Justice.
HB 2608 to Committee on Natural Resources.
HB 2622 to Committee on Transportation and Homeland Security.
HB 2644 to Committee on Health and Human Services.
HB 2646 to Committee on Education.
HB 2653 to Committee on Intergovernmental Relations.
HB 2660 to Committee on Business and Commerce.
HB 2662 to Committee on Education.
HB 2667 to Committee on State Affairs.
HB 2701 to Committee on State Affairs.
HB 2709 to Committee on Finance.
HB 2723 to Committee on Business and Commerce.
HB 2739 to Committee on State Affairs.
HB 2740 to Committee on Intergovernmental Relations.
HB 2785 to Committee on Finance.
HB 2827 to Committee on Health and Human Services.
HB 2862 to Committee on Transportation and Homeland Security.
HB 2864 to Committee on Education.
HB 2868 to Committee on Finance.
HB 2884 to Committee on Criminal Justice.
HB 2907 to Committee on Transportation and Homeland Security.
HB 2909 to Committee on Intergovernmental Relations.
HB 2935 to Committee on Health and Human Services.
HB 2936 to Committee on Business and Commerce.
HB 2982 to Committee on Finance.
HB 3008 to Committee on Health and Human Services.
HB 3035 to Committee on Health and Human Services.
HB 3083 to Committee on Jurisprudence.
HB 3093 to Committee on Business and Commerce.
HB 3098 to Committee on Natural Resources.
HB 3107 to Committee on Finance.
HB 3168 to Committee on Natural Resources.
HB 3171 to Committee on Education.
HB 3184 to Committee on Health and Human Services.
HB 3190 to Committee on Transportation and Homeland Security.
HB 3195 to Committee on Intergovernmental Relations.
HB 3197 to Committee on Jurisprudence.
HB 3200 to Committee on Criminal Justice.
HB 3202 to Committee on Education.

HB 3220 to Committee on Natural Resources.
HB 3223 to Committee on Intergovernmental Relations.
HB 3232 to Committee on Intergovernmental Relations.
HB 3248 to Committee on Intergovernmental Relations.
HB 3261 to Committee on Health and Human Services.
HB 3266 to Committee on Natural Resources.
HB 3268 to Committee on Business and Commerce.
HB 3282 to Committee on Finance.
HB 3297 to Committee on Education.
HB 3298 to Committee on State Affairs.
HB 3299 to Committee on Intergovernmental Relations.
HB 3300 to Committee on Natural Resources.
HB 3358 to Committee on Business and Commerce.
HB 3377 to Committee on Criminal Justice.
HB 3378 to Committee on Natural Resources.
HB 3382 to Subcommittee on Higher Education.
HB 3396 to Committee on Veteran Affairs and Military Installations.
HB 3407 to Committee on Intergovernmental Relations.
HB 3417 to Committee on Intergovernmental Relations.
HB 3431 to Committee on Natural Resources.
HB 3439 to Committee on Intergovernmental Relations.
HB 3441 to Committee on Transportation and Homeland Security.
HB 3443 to Committee on Health and Human Services.
HB 3470 to Committee on State Affairs.
HB 3487 to Committee on Education.
HB 3502 to Committee on Natural Resources.
HB 3503 to Committee on Intergovernmental Relations.
HB 3513 to Committee on Health and Human Services.
HB 3521 to Committee on Criminal Justice.
HB 3524 to Committee on Transportation and Homeland Security.
HB 3541 to Committee on Government Organization.
HB 3549 to Committee on Jurisprudence.
HB 3575 to Committee on Health and Human Services.
HB 3578 to Committee on Jurisprudence.
HB 3583 to Committee on Intergovernmental Relations.
HB 3584 to Committee on Criminal Justice.
HB 3618 to Committee on Health and Human Services.
HB 3624 to Committee on Natural Resources.
HB 3647 to Committee on International Relations and Trade.
HB 3659 to Committee on Criminal Justice.
HB 3666 to Committee on Transportation and Homeland Security.
HB 3693 to Committee on Business and Commerce.
HB 3706 to Committee on Business and Commerce.
HB 3709 to Committee on Intergovernmental Relations.
HB 3735 to Committee on Health and Human Services.
HB 3736 to Committee on Criminal Justice.

HB 3739 to Committee on Natural Resources.
HB 3764 to Committee on Natural Resources.
HB 3780 to Committee on Natural Resources.
HB 3828 to Committee on Education.
HB 3837 to Committee on Natural Resources.
HB 3838 to Committee on Natural Resources.
HB 3845 to Committee on Natural Resources.
HB 3854 to Committee on Transportation and Homeland Security.
HB 3858 to Committee on Criminal Justice.
HB 3860 to Committee on Intergovernmental Relations.
HB 3862 to Committee on Intergovernmental Relations.
HB 3872 to Committee on Intergovernmental Relations.
HB 3873 to Committee on Intergovernmental Relations.
HB 3877 to Committee on International Relations and Trade.
HB 3934 to Subcommittee on Higher Education.
HB 3954 to Committee on Intergovernmental Relations.
HB 3982 to Committee on Intergovernmental Relations.
HB 3991 to Committee on Intergovernmental Relations.
HB 4004 to Committee on Intergovernmental Relations.
HB 4010 to Committee on Natural Resources.
HB 4014 to Committee on Natural Resources.
HB 4019 to Committee on Intergovernmental Relations.
HB 4022 to Committee on Intergovernmental Relations.
HB 4024 to Committee on Intergovernmental Relations.
HB 4028 to Committee on Administration.
HB 4032 to Committee on Natural Resources.
HB 4053 to Committee on Natural Resources.
HB 4057 to Committee on Natural Resources.
HB 4060 to Committee on Intergovernmental Relations.
HB 4069 to Committee on Intergovernmental Relations.
HB 4072 to Committee on Intergovernmental Relations.
HB 4093 to Committee on Intergovernmental Relations.
HB 4095 to Committee on Intergovernmental Relations.
HB 4097 to Committee on Intergovernmental Relations.
HB 4098 to Committee on Intergovernmental Relations.
HB 4100 to Committee on Natural Resources.
HB 4101 to Committee on Natural Resources.
HB 4109 to Committee on Intergovernmental Relations.
HB 4110 to Committee on Intergovernmental Relations.
HB 4112 to Committee on Natural Resources.
HB 4114 to Committee on Natural Resources.
HB 4122 to Committee on Natural Resources.
HB 4123 to Committee on Intergovernmental Relations.
HJR 37 to Committee on Finance.
HJR 40 to Committee on Finance.
HJR 93 to Committee on Finance.

HCR 12 to Committee on Government Organization.
HCR 16 to Committee on Veteran Affairs and Military Installations.
HCR 35 to Committee on State Affairs.
HCR 111 to Committee on Administration.
HCR 143 to Committee on Education.
HCR 151 to Committee on Government Organization.
HCR 187 to Committee on State Affairs.
HCR 193 to Committee on Transportation and Homeland Security.
HCR 201 to Committee on Government Organization.
HCR 212 to Committee on Government Organization.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 426**

Senator West submitted the following Conference Committee Report:

Austin, Texas
May 14, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 426** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

WEST
ELLIS
NICHOLS
PATRICK
WENTWORTH
On the part of the Senate

HILL
HOCHBERG
PUENTE
CREIGHTON
QUINTANILLA
On the part of the House

**A BILL TO BE ENTITLED
AN ACT**

relating to qualification for an ad valorem tax exemption for property used to provide low-income or moderate-income housing in the event of a change in ownership of the property as a result of a foreclosure sale.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 11.182, Tax Code, is amended by amending Subsection (j) and adding Subsection (k) to read as follows:

(j) An organization may not receive an exemption under Subsection (b) or ~~[under Subsection] (f)[, as added by Chapter 1191, Acts of the 77th Legislature, Regular Session, 2001,]~~ for property for a tax year ~~[beginning on or after January 1, 2004,]~~ unless the organization received an exemption under that subsection for the ~~[that]~~ property for any part of the 2003 tax year.

(k) Notwithstanding Subsection (j) of this section and Sections 11.43(a) and (c), an exemption under Subsection (b) or (f) does not terminate because of a change in the ownership of the property if the property is sold at a foreclosure sale and, not later than the 30th day after the date of the sale, the owner of the property submits to the chief appraiser evidence that the property is owned by an organization that meets the requirements of Subsections (b)(1), (2), and (4). If the owner of the property submits the evidence required by this subsection, the exemption continues to apply to the property for the remainder of the current tax year and for subsequent tax years until the owner ceases to qualify the property for the exemption. This subsection does not prohibit the chief appraiser from requiring the owner to file a new application to confirm the owner's current qualification for the exemption as provided by Section 11.43(c).

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

The Conference Committee Report on **SB 426** was filed with the Secretary of the Senate on Monday, May 14, 2007.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 893**

Senator Zaffirini submitted the following Conference Committee Report:

Austin, Texas
May 9, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 893** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

ZAFFIRINI
SHAPLEIGH
CARONA
AVERITT
WENTWORTH

On the part of the Senate

RAYMOND
GUILLEN
PHILLIPS

On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to international toll bridges in certain counties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 364, Transportation Code, is amended by adding Section 364.0001 to read as follows:

Sec. 364.0001. DEFINITION. (a) Except as provided by Subsection (b), in this chapter, "bridge" includes a bridge used by vehicles, pedestrians, or railroads, or a combination of vehicles, pedestrians, or railroads.

(b) For the purposes of this chapter, "bridge" does not include a railroad bridge in a county with a population of more than 675,000.

SECTION 2. Subchapter A, Chapter 364, Transportation Code, is amended by adding Section 364.004 to read as follows:

Sec. 364.004. AGREEMENTS RELATING TO TOLL BRIDGE. (a) A county may enter into and make payments under an agreement with a private entity or another governmental entity to acquire, construct, maintain, or operate a toll bridge, including an international toll bridge, and a private or governmental entity in this state may enter into an agreement with a county for that purpose.

(b) In connection with or in support of an agreement entered into under Subsection (a), the county may enter into a lease, an operating agreement, a service agreement, a license agreement, a franchise agreement, or a similar agreement with a private entity or another governmental entity.

(c) This section does not apply to a county with a population of more than 675,000.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

The Conference Committee Report on **SB 893** was filed with the Secretary of the Senate.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 1033 by Van de Putte, In memory of Audreyjane "Ajay" Castro of San Antonio.

SR 1037 by Van de Putte, In memory of Vione "Red" Koepp of San Antonio.

SR 1038 by Van de Putte, In memory of Fernando D. "Ferny" Villarreal of San Antonio.

SR 1045 by Hegar, In memory of Leslie Louis Appelt.

Congratulatory Resolutions

SR 1036 by Seliger, Recognizing Parmer County on the occasion of its 100th anniversary.

SR 1039 by Van de Putte, Recognizing Tecla Kramm on the occasion of her retirement from the YMCA of Greater San Antonio.

SR 1040 by Van de Putte, Recognizing Gloria Jimenez of San Antonio on the occasion of her retirement from AT&T Services, Incorporated.

SR 1043 by Shapiro, Recognizing Bobbie and Elvin Currie on the occasion of their 50th wedding anniversary.

SR 1044 by Jackson, Recognizing Larry and Linda Cernosek on the occasion of their 30th wedding anniversary.

SR 1046 by Fraser, Recognizing the City of Killeen on the occasion of its 125th anniversary.

SR 1047 by Lucio, Congratulating contributors to the *Brownsville Herald* for receiving awards from the Texas Associated Press.

SR 1048 by Lucio, Recognizing Norbert and Ruthie Ewers of Harlingen on the occasion of their 50th wedding anniversary.

SR 1049 by Nelson, Congratulating the girls basketball team of Faith Christian School in Grapevine for winning a state championship.

SR 1050 by Nelson, Commending Sister Margaret Ann Moser for her dedication to Ursuline Academy of Dallas.

SR 1051 by Seliger, Commending Lauren Tipton for her work in the office of Senator Seliger.

SR 1052 by Seliger, Commending Michael McKissack for his work in the office of Senator Seliger.

SR 1053 by Seliger, Commending Nicole Monsibais for her work in the office of Senator Seliger.

SR 1054 by Seliger, Commending Adam Blanchard for his work in the office of Senator Seliger.

SR 1055 by Watson, Recognizing Metz Elementary School on the occasion of its 90th anniversary.

SR 1056 by Watson, Commending Marcia Ball for her contributions to the music industry.

SR 1057 by Watson, Recognizing Jennifer Hamilton on the occasion of her retirement from the Office of the Comptroller of Public Accounts.

HCR 196 (Jackson), Honoring the Distinguished Graduates of La Marque High School of 2007.

HCR 235 (Hinojosa), Honoring Sergeant Brian J. Burzynski of the Texas Rangers for investigating allegations of abuse at a Texas Youth Commission facility.

HCR 252 (Hinojosa), Commending Isela Gutierrez and Will Harrell on their efforts regarding reforming the Texas Youth Commission.

ADJOURNMENT

Pursuant to a previously adopted motion, the Senate at 8:40 p.m. adjourned until 11:00 a.m. tomorrow.

APPENDIX

COMMITTEE REPORTS

The following committee reports were received by the Secretary of the Senate in the order listed:

May 15, 2007

FINANCE — **CSSB 953, CSHB 3928**

NATURAL RESOURCES — **CSHB 2819, CSHB 3732**

BUSINESS AND COMMERCE — **CSHB 1038**

JURISPRUDENCE — **CSHB 1086**

FINANCE — **CSHB 621, CSHB 1634**

STATE AFFAIRS — **HB 155, HB 590, HB 842, HB 1005, HB 1170, HB 1179, HB 1268, HB 1446, HB 1572, HB 2015, HB 2248, HB 2462, HB 2589, HB 2664, HB 2718, HB 2765, HB 2882, HB 3619, SJR 68**

GOVERNMENT ORGANIZATION — **HCR 25, HB 387, HB 1788, HB 1789, HB 2427**

BUSINESS AND COMMERCE — **CSSB 1159, CSHB 1460, CSHB 2994**

INTERNATIONAL RELATIONS AND TRADE — **HB 2796, CSHB 3068**

GOVERNMENT ORGANIZATION — **HB 1297**

STATE AFFAIRS — **CSHB 27, CSHB 1290, CSHB 1921, CSHB 2549, CSHB 3105**

EDUCATION — **HJR 103, CSHB 120, CSHB 1374, HB 2171, HB 2371, HB 2504, HB 2626, CSHB 2639, HB 2834, HB 3092, HB 3259**

INTERGOVERNMENTAL RELATIONS — **HB 538, HB 738, HB 1561, HB 1764, HB 2095, HB 2406, HB 2591, HB 3410, HB 3731**

HEALTH AND HUMAN SERVICES — **HB 1082, HB 1373, HB 2132, HB 2313, HB 2580, HB 3473**

SIGNED BY GOVERNOR

May 11, 2007

SB 57, SB 91, SB 237, SB 393, SB 471, SB 584, SB 622, SB 904, SB 1315, SCR 57, SCR 69

JA_008393

Tuesday, May 15, 2007

SENATE JOURNAL

2137

SENT TO GOVERNOR

May 15, 2007

SB 453, SB 812, SB 883, SB 913, SB 978, SB 1229, SCR 74, SCR 78

FILED WITHOUT SIGNATURE OF GOVERNOR

May 15, 2007

SB 1580

By: Denny

H.B. No. 1706

A BILL TO BE ENTITLED

AN ACT

relating to requiring a voter to present proof of identification.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 63.001, Election Code, is amended by amending Subsections (b), (c), (d), and (f) and adding Subsection (g) to read as follows:

(b) On offering to vote, a voter must present to an election officer at the polling place the voter's voter registration certificate and either:

(1) one form of identification listed in Section 63.0101(a); or

(2) two different forms of identification listed in Section 63.0101(b) [to an election officer at the polling place].

(c) On presentation of the documentation required by Subsection (b) [a registration certificate], an election officer shall determine whether the voter's name on the registration certificate is on the list of registered voters for the precinct.

(d) If the voter's name is on the precinct list of registered voters and the voter's identity can be verified from the proof presented, the voter shall be accepted for voting.

(f) After determining whether to accept a voter, an election officer shall return the voter's documentation [~~registration certificate~~] to the voter.

(g) If the requirements for identification prescribed by

H.B. No. 1706

1 Subsection (b) are not met, the voter may be accepted for
2 provisional voting only under Section 63.011.

3 SECTION 2. Section 63.006(a), Election Code, is amended to
4 read as follows:

5 (a) A voter who, when offering to vote, presents a voter
6 registration certificate indicating that the voter is currently
7 registered in the precinct in which the voter is offering to vote,
8 but whose name is not on the precinct list of registered voters,
9 shall be accepted for voting if the voter's identity can be verified
10 from the proof presented.

11 SECTION 3. Section 63.007(a), Election Code, is amended to
12 read as follows:

13 (a) A voter who, when offering to vote, presents a voter
14 registration certificate indicating that the voter is currently
15 registered in a different precinct from the one in which the voter
16 is offering to vote, and whose name is not on the precinct list of
17 registered voters, shall be accepted for voting if the voter's
18 identity can be verified from the proof presented and the voter
19 executes an affidavit stating that the voter:

20 (1) is a resident of the precinct in which the voter is
21 offering to vote or is otherwise entitled by law to vote in that
22 precinct;

23 (2) was a resident of the precinct in which the voter
24 is offering to vote at the time that information on the voter's
25 residence address was last provided to the voter registrar;

26 (3) did not deliberately provide false information to
27 secure registration in a precinct in which the voter does not

H.B. No. 1706

1 reside; and

2 (4) is voting only once in the election.

3 SECTION 4. Section 63.008(a), Election Code, is amended to
4 read as follows:

5 (a) A voter who does not present a voter registration
6 certificate when offering to vote, but whose name is on the list of
7 registered voters for the precinct in which the voter is offering to
8 vote, shall be accepted for voting if the voter executes an
9 affidavit stating that the voter does not have the voter's voter
10 registration certificate in the voter's possession at the polling
11 place at the time of offering to vote and the voter's identity can
12 be verified from the proof presented [~~voter presents proof of~~
13 ~~identification in a form described by Section 63.0101~~].

14 SECTION 5. Section 63.0101, Election Code, is amended to
15 read as follows:

16 Sec. 63.0101. DOCUMENTATION OF PROOF OF IDENTIFICATION.

17 (a) The following documentation is an acceptable form [~~as proof~~] of
18 photo identification under this chapter:

19 (1) a driver's license or personal identification card
20 issued to the person by the Department of Public Safety that has not
21 expired or that expired no earlier than two years before the date of
22 presentation [~~or a similar document issued to the person by an~~
23 ~~agency of another state, regardless of whether the license or card~~
24 ~~has expired~~];

25 (2) a United States military identification card that
26 contains the person's photograph [~~form of identification~~
27 ~~containing the person's photograph that establishes the person's~~

H.B. No. 1706

1 ~~identity];~~

2 (3) a valid employee identification card that contains
 3 the person's photograph and is issued by an employer of the person
 4 in the ordinary course of the employer's business [~~birth~~
 5 ~~certificate or other document confirming birth that is admissible~~
 6 ~~in a court of law and establishes the person's identity)];~~

7 (4) a United States citizenship certificate [~~papers~~]
 8 issued to the person that contains the person's photograph;

9 (5) a United States passport issued to the person;

10 (6) a student identification card issued by a public
 11 or private institution of higher education located in Texas that
 12 contains the person's photograph [~~official mail addressed to the~~
 13 ~~person by name from a governmental entity)]; or~~

14 (7) a license to carry a concealed handgun issued to
 15 the person by the Department of Public Safety.

16 (b) The following documentation is acceptable as proof of
 17 identification under this chapter:

18 (1) a copy of a current utility bill, bank statement,
 19 government check, paycheck, or other government document that shows
 20 the name and address of the voter;

21 (2) official mail addressed to the person by name from
 22 a governmental entity;

23 (3) a certified copy of a birth certificate or other
 24 document confirming birth that is admissible in a court of law and
 25 establishes the person's identity;

26 (4) United States citizenship papers issued to the
 27 person;

H.B. No. 1706

1 (5) an original or certified copy of the person's
 2 marriage license or divorce decree;

3 (6) court records of the person's adoption, name
 4 change, or sex change;

5 (7) an identification card issued to the person by a
 6 governmental entity of this state or the United States for the
 7 purpose of obtaining public benefits, including veteran's
 8 benefits, Medicaid, or Medicare;

9 (8) a temporary driving permit issued to the person by
 10 the Department of Public Safety;

11 (9) a pilot's license issued to the person by the
 12 Federal Aviation Administration or another authorized agency of the
 13 United States;

14 (10) a library card that contains the person's name
 15 issued to the person by a public library located in this state; or

16 (11) a hunting or fishing license issued to a person by
 17 the Parks and Wildlife Department [~~or~~

18 ~~any other form of identification prescribed by~~
 19 ~~the secretary of state].~~

20 SECTION 6. Section 63.011(a), Election Code, is amended to
 21 read as follows:

22 (a) A person to whom Section 63.001(g), 63.008(b), or
 23 63.009(a) applies may cast a provisional ballot if the person
 24 executes an affidavit stating that the person:

25 (1) is a registered voter in the precinct in which the
 26 person seeks to vote; and

27 (2) is eligible to vote in the election.

H.B. No. 1706

1 SECTION 7. Section 521.422, Transportation Code, is amended
2 by amending Subsection (a) and adding Subsection (d) to read as
3 follows:

4 (a) Except as provided by Subsection (d), the ~~[The]~~ fee for
5 a personal identification certificate is:

6 (1) \$15 for a person under 60 years of age;

7 (2) \$5 for a person 60 years of age or older; and

8 (3) \$20 for a person subject to the registration
9 requirements under Chapter 62, Code of Criminal Procedure.

10 (d) The department may not collect a fee for a personal
11 identification certificate issued to a person who executes an
12 affidavit stating that the person is financially unable to pay the
13 required fee and:

14 (1) who is a registered voter in this state and
15 presents a valid voter registration certificate; or

16 (2) who is eligible for registration under Section
17 13.001, Election Code, and submits a registration application to
18 the department.

19 SECTION 8. This Act takes effect September 1, 2005.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

March 17, 2005

TO: Honorable Mary Denny, Chair, House Committee on Elections

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: HB1706 by Denny (Relating to requiring a voter to present proof of identification.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1706, As Introduced: an impact of \$0 through the biennium ending August 31, 2007.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2006	\$0
2007	\$0
2008	\$0
2009	\$0
2010	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from TEXAS MOBILITY FUND 365
2006	(\$130,110)
2007	(\$130,110)
2008	(\$130,110)
2009	(\$130,110)
2010	(\$130,110)

Fiscal Analysis

The bill amends Election Code to require a voter to present additional identification items in addition to the voter registration certificate and expands the current list of documentation acceptable as proof of identification. It also amends Transportation Code to allow the Department of Public Safety to issue a personal identification certificate (ID) at no cost to individuals who execute an affidavit stating they are unable to pay the required fee. A resulting revenue loss to the Texas Mobility Fund is anticipated.

Methodology

The estimate is based on the total number of ID holders who were registered to vote in 2004 multiplied by the product of the U.S. Concensus' estimated population living below the poverty level in Texas multiplied by the \$15 cost for original and renewal issuances of a personal IDs.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 307 Secretary of State, 405 Department of Public Safety

LBB Staff: JOB, LB, SJ, NR, KJG

TEXAS HOUSE OF REPRESENTATIVES
COMMITTEE ON ELECTIONS
SUBCOMMITTEE ON VERIFICATION VOTERS
MARCH 17, 2005

Transcribed by Rhonda Howard, CSR
April 24, 2012



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CHAIRMAN BOHAC: The Subcommittee on
Voter Verification will come to order. Will the
Clerk please call the role.

THE CLERK: Chairman Bohac.

CHAIRMAN BOHAC: Here.

THE CLERK: Mr. Anchia.

REPRESENTATIVE ANCHIA: Here.

THE CLERK: Quorum is present.

CHAIRMAN BOHAC: I want to welcome
everyone in the audience and invite everyone voting
for, on or against the bill to hand your form to the
Clerk.

Representative Nixon's bill will not be
heard today, but it is the Chair's intent to leave
the bill pending. And the Chair will now lay out
House Bill 1293 by Nixon.

And the Chair will now leave pending House
Bill 1293 by Nixon.

And since Representative Kolkhorst is now
here, the Chair would like to -- at this time would
like for Lois to lay out House Bill -- lay out House
Bill 472 and Representative Kolkhorst to lay out her
bill.

REPRESENTATIVE KOLKHORS: Thank you,
Chairman Bohac.



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1 CHAIRMAN BOHAC: You're welcome.

2 REPRESENTATIVE KOLKHORST: You did a
3 nice job there. Nice to have you here.

4 CHAIRMAN BOHAC: Great to be here.

5 REPRESENTATIVE KOLKHORST: Chairman
6 Bohac and I sat by each other in Business and
7 Industry last year when he was a freshman and I was
8 a wiley sophomore.

9 Thank you for allowing me to be before
10 you.

11 For those that don't know, we're in our
12 last day of appropriations in our Committee, thank
13 goodness. It's been a long journey, but we're in
14 the middle of laying out riders and then (inaudible)
15 subcommittee verification. I'm a little compromised
16 in my time today, so I will lay out House Bill 1402.

17 House Bill 1402 is a very simple bill,
18 which basically gives you two -- two choices of when
19 you're -- when you're voting: One form of
20 identification with a person's photograph or two
21 different forms of identification that do not
22 contain the person's photograph. And, you know, in
23 looking at -- I always like to tell about my
24 journeys of how and why I file a bill. And one of
25 the things that I've had some experiences on is



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1 being involved in different elections. We obviously
2 know that we endured a number of challenges not just
3 on the State level but throughout the State of
4 Texas. And one of my -- one of my real concerns
5 is -- is that when you can go and vote - and - and
6 this has happened to one of my best friends, and she
7 did it as a test - that she didn't have her voter
8 identification.

9 She went. She didn't show an I.D. She
10 just went and signed her name. And she knew that
11 they weren't going to ask anything.

12 And so when they did that, she went and
13 voted. I said, "Well, Alison, how did they know it
14 was you?" She said, "Well, they didn't."

15 And then I think we had another incident
16 in Brazos County where a young man went to vote and
17 somebody had voted for him in early voting.

18 And so one of the things that I think --
19 the most important thing that we have in this
20 country is our right to vote. And Chairman Bohac,
21 you and I have had long talks about that. And
22 nothing has been more sobering to me than seeing
23 what's happening in Iraq and Afghanistan and the
24 pride that those people have taken in casting their
25 first vote. And I don't want anything here in this



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1 country to be compromised on that privilege. And it
2 is indeed a privilege where many men and women have
3 died giving us that privilege.

4 So in looking at this and looking at
5 different states, I think this is similar to what
6 Arizona has recently -- recently passed and
7 saying -- in saying not just picture I.D., but if
8 you don't have a picture I.D., two other forms of
9 identification that allows you to say this is who
10 you are.

11 There are a couple things I want to say
12 and -- and -- before -- before I go back to
13 appropriations. Obviously, our world has changed a
14 lot, and it's evolved. September 11's changed a lot
15 of things for us. Could not get on an airplane
16 without showing a picture I.D. Can't cash a check
17 without showing a picture I.D. I can't use my
18 credit card without showing my picture I.D., because
19 I think it's swiped enough that my signature is off
20 the back. You can't rent a -- a movie at the
21 Blockbuster Video without showing an I.D. of who you
22 are. There -- there are a number of things that
23 require us to prove who we are, and there's a good
24 reason for that. I -- I certainly think that those
25 standards should be applied to the most precious



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1 right we have as a United States citizen.

2 So I offer that up. I -- I know that
3 there will be some arguments about deterrents, this
4 could discourage someone from voting. Well, then,
5 obviously, those people are very discouraged from
6 doing any transaction, because when you go somewhere
7 you have to prove who you are almost in everything
8 that you do. Even recently at my bank when I tried
9 to make a deposit at my bank, they asked for a -- an
10 I.D. to be sent through the cannister.

11 So, you know, this is a part of the world
12 in which we live in today.

13 I appreciate you allowing me to lay the
14 bill out. One of my staffers is going to stay to
15 hear. I'll try to come back and close, but if I'm
16 not able to, Mr. Chairman, would you do the honor of
17 closing for me?

18 CHAIRMAN BOHAC: Absolutely.
19 Members, are there any questions for Representative
20 Kolthorst?

21 REPRESENTATIVE KOLKHORST: Thank you
22 very much.

23 CHAIRMAN BOHAC: Madame (inaudible),
24 good to see you here today.

25 REPRESENTATIVE KOLKHORST: Thank you



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1 for allowing me to be before your subcommittee.

2 CHAIRMAN BOHAC: And please let the
3 record show that Representative Brian Hughes is now
4 present. Welcome, Brian.

5 REPRESENTATIVE HUGHES: Right here.

6 CHAIRMAN BOHAC: The Chair would now
7 like to call Paula Littles, representing the Texas
8 AFLCIO, testifying against the bill.

9 PAULA LITTLES: Good afternoon. My
10 name is Paula Littles, and I am here representing
11 the Texas AFLCIO. And I actually probably also
12 should have filled one out so that I could represent
13 myself.

14 But we're opposed to this bill for a
15 number of reasons. The main one is -- is that we're
16 requiring people to provide another -- one more
17 source of identification for them in order to vote.
18 And we personally believe it is a deterrent.

19 I also -- I have voted on a number of
20 occasions without having my voter registration card,
21 and I have been allowed to vote without showing some
22 other forms of identification. And that's something
23 that's normally passports or my driver's license.
24 So I -- if someone is allowed to vote without having
25 anything, that's a problem that probably the



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1 counties need to address when they're training of
2 their precinct judges.

3 Some of the reasons that we're opposed to
4 this, in some areas of the State -- and I've worked
5 in elections in -- in east Texas and some of the
6 larger cities. I haven't actually spent much time
7 down in the Valley or going west. But if -- in --
8 in both places in Texas -- and no, sir, I don't know
9 what the problems are in some of these counties.
10 But we don't provide enough resources to our
11 counties to manage elections as it is. You go into
12 certain areas of this state, you don't have enough
13 voting machines, you don't have enough clerks, and
14 you have very, very long lines. And we also don't
15 provide information properly to our voters. We --
16 say this bill passes or one of the three passes and
17 we go to vote, I'll know, because I was here. The
18 average person that is going to vote at 5:00
19 o'clock, and it's likely if you live in some large
20 cities and in some neighborhoods your voting place
21 has already changed, because it's not the one that
22 you voted at the last time. So you go there first,
23 and you discover -- because there's no sign. You
24 can only hope that you can find someone to tell you
25 that your voting place is someplace else if you



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1 don't take the newspaper or have time to read the
2 paper that morning of the election, which is the
3 only time in some cities they're posted.

4 I go to vote. You discover it's changed.
5 So even -- you discover it's not changed, but it's
6 5:00 o'clock. When you get there, you have your
7 voter registration card. And at that point someone
8 wants a driver's license -- well, you know, in some
9 areas of the state people don't have cars. They
10 can't drive. They can't afford one. And so they're
11 riding the bus. They don't have their driver's
12 license, because they don't own one, or maybe they
13 have a state I.D., but they don't have it with them.
14 They don't have their gas bill, and they can't vote.
15 They have to go home, because we haven't done any
16 type of outreach, because we don't do that in this
17 state, unfortunately, to make sure that people --
18 well in advance of what's expected of them.

19 Right now, the average voter -- and most
20 voters are legitimate and honest. I've heard a lot
21 of people over -- over time say that there's a lot
22 of rampant dishonesty going on in elections. And I
23 haven't seen that in a lot of places, and I have
24 done elections all over. I have not seen rampant
25 people just -- unfortunately, people aren't flocking



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10

1 to the polls and voting, as it is. And so,
2 therefore, us making it a little bit harder for
3 those people that do come out and vote, I think
4 it's -- it's -- it's just -- it's one of those
5 things that there are probably a number of other
6 ways that we can curve the -- this rampant voter
7 fraud. By making it harder for those honest
8 citizens of this state to come vote, I just don't
9 think it's one of them, or at least my organization
10 and I don't think it's one of them.

11 Thank you for your time. Are there any
12 questions?

13 CHAIRMAN BOHAC: Mr. Hughes, we'll
14 recognize you for a question.

15 REPRESENTATIVE HUGHES: Thank you for
16 your testimony today.

17 You mentioned east Texas. I'm from east
18 Texas. I'm just wondering where that was.

19 PAULA LITTLES: I didn't work against
20 you.

21 REPRESENTATIVE HUGHES: That was my
22 next question. You anticipated my question.

23 PAULA LITTLES: I would never work
24 against you.

25 REPRESENTATIVE HUGHES: Well, I



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11

1 hope -- you know, my dad -- my dad just retired

2 as -- from 40 years from U.T. --

3 PAULA LITTLES: Yes, yes.

4 REPRESENTATIVE HUGHES: -- U as part

5 of AFLCIO.

6 PAULA LITTLES: Yes, I know.

7 REPRESENTATIVE HUGHES: And I'm

8 curious, where in east Texas?

9 PAULA LITTLES: Well, let's see. I

10 have been in Marshall. I have been in, you know,

11 some of those wonderful places like Cass County.

12 REPRESENTATIVE HUGHES: Yes, ma'am.

13 PAULA LITTLES: I've been in

14 Texarkana. I've been in Tyler more times than I

15 care to count. And I stayed in Longview long enough

16 that I know everybody at the hotel -- Hampton Inn.

17 REPRESENTATIVE HUGHES: Yes, ma'am.

18 I understand. I appreciate you being here. Thank

19 you.

20 PAULA LITTLES: Okay. Thank you.

21 CHAIRMAN BOHAC: Representative

22 Anchia.

23 REPRESENTATIVE ANCHIA: Thank you,

24 Mr. Chair, and thank you, as well, for your

25 testimony.



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12

1 One of the things that we're trying to do
2 here is for -- is for balance. What -- we may
3 understand this alleged voter fraud, while at the
4 same time allowing people to exercise their
5 fundamental right, their franchise to vote.

6 And I understand your position very
7 clearly. When -- when you -- when we're seeking a
8 balance one of the things that's helpful is to
9 understand a -- what the problem is and about what
10 the actual -- what the actual obstacles would be to
11 implementing something like that and what -- and how
12 might this disenfranchise people. Because for me,
13 it seems pretty logical that most people in this
14 state would have a voter I.D. or -- or some sort of
15 state identification. And my understanding when I
16 looked at the list and I studied this bill, when I
17 looked at the other forms of I.D. that were
18 available, I mean, it was everything from a fishing
19 license to a gun license to -- there was a big
20 laundry list. And -- and you -- you might recall my
21 testimony on another bill that I thought was a
22 little bit onerous in terms of giving someone the
23 opportunity to register to vote.

24 But I wanted -- I wanted your help in
25 trying to understand why this might be an



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13

1 unreasonable obstacle to place on a person.

2 Do you under -- do you have a feel for
3 what the incidence or penetration rate in our
4 communities are of either driver's license or -- or
5 state I.D.s? I don't have a feel for that.

6 PAULA LITTLES: I don't have a feel
7 for that.

8 What -- I'll give you an example of -- I
9 was trying to think back on some -- some things that
10 basically -- just in the last election cycle some
11 things that I noticed that occurred on election day.

12 REPRESENTATIVE ANCHIA: Uh-huh.

13 PAULA LITTLES: I was not in Austin.
14 I was in a larger city in the State. And I was
15 in -- I've got a couple of minority polling places.
16 And -- and you know, I think one of the things that
17 some of us tend to take for granted, and I do, too,
18 I -- I drive every place that I go. I -- I -- I
19 don't even know what I would do if we had a good
20 public transportation system in the state, because
21 I'm just so used to driving.

22 But -- so I see long lines of polling
23 places, but I -- I don't see -- I see very few cars.
24 And this is strange, because it was a large city.
25 And -- and I hadn't worked in a large city for a



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1 while. And then I discovered most of the people
2 were on the bus. They were getting off from work,
3 you know. And so I went into the poll -- I went
4 into this one polling place, because a friend was a
5 clerk and I was taking him some food. And -- and
6 while I was giving her the food, there was a lady in
7 line, and she didn't have her driver's license -- I
8 mean, she didn't have her voter registration card
9 and she didn't have her driver's license. And --
10 and the first thought that crossed my mind, was why
11 doesn't she have her driver's license. I'm still
12 not connecting with where these people -- these
13 people on the bus. And so -- and then she's looking
14 for some identification. And -- and when she got
15 through voting, we were both walking out together,
16 and she was telling me how, you know, she had stood
17 in line for a long time. She was just so glad she
18 found something that worked so she could vote,
19 because she had been in this long line. And if she
20 had had to go home to get something else she
21 wouldn't have -- she wouldn't have came back.

22 And I think that's a big problem in -- for
23 a lot of people, especially poor people, because
24 they don't have the luxury of -- since my boss isn't
25 in, I may go vote at any given point in time during



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1 the point of the day. But that's a luxury -- luxury
2 that I have that a lot of people just don't have.
3 The average person doesn't have those luxuries.
4 They don't have the luxury of being told that you
5 need something else after you get there.

6 And one of our problems, one, that we
7 don't work hard enough to make sure that people have
8 what they need before they get there. We don't do
9 the job well enough.

10 As I said, in some states -- in some
11 counties, people don't know their voting place has
12 changed until the day of an election. And if you
13 don't take the newspaper or if you leave home early,
14 because you need to be at work for 6:00 or 7:00, you
15 don't know this until you get off from work. And
16 once you're off from work and then you decide
17 because you want to do your duty and you want to go
18 and vote as soon as you're off from work, and that
19 luxury doesn't afford -- doesn't come to you until
20 after 5:00 or 6:00 o'clock. Then when you get there
21 and you discover that you've got your voter
22 registration card, but that's not enough, because we
23 don't -- I don't think we do our job well enough
24 to -- contiguously to create other things for people
25 to do in order to vote.



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1 We -- we make a lot of rules, but we just
2 don't do our job well enough at getting out those
3 rules out to the average citizen that -- that for
4 whatever reason, they literally can't look at
5 television during the 6:00 o'clock news, you know.
6 Doing their children's homework at 7:00 after
7 dinner, and then they're putting them to bed and
8 going to sleep, because they have to get up early
9 and catch the bus to go to work. And,
10 unfortunately, we don't connect with those people
11 way too many times.

12 But I can write up some other things that
13 I know about, Representative Anchia, that I can get
14 to you and any other member of the Committee that
15 would be interested. Okay?

16 Any other questions? Thank you.

17 CHAIRMAN BOHAC: The Chair now calls
18 Suzy Woodford, representing Common Cause here to
19 testify against the bill.

20 SUZY WOODFORD: I believe I checked
21 did not testify. I just wanted to be on the record
22 for being in opposition.

23 CHAIRMAN BOHAC: Okay. The Chair now
24 calls Cliff Borofsky from Bexar County a/k/a Bexar
25 County to testify against the bill.



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1 CLIFF BOROFSKY: Good afternoon.

2 Cliff Borofsky, the elections administrator for
3 Bexar County.

4 I'm testifying against the bill, but I do
5 don't want to comment to the Committee and the House
6 for addressing the issue of voter I.D., because it
7 is an issue. Along with House Bill 516, both of
8 those address the issue.

9 The primary reason that I wanted to oppose
10 this has to do with the requirement for voter's
11 registration certificate and one of the others.

12 We have, I will estimate, close to
13 50 percent of the voters in our county, maybe 40,
14 don't bring a voter registration card. For reasons
15 of efficiency, they put it aside, they're coming or
16 going, they don't bring it or some of them never
17 bring it for any reason. And it applies across the
18 strata. We have a well-known diverse group of
19 voters in our county, and this applies to everyone.

20 The other point I want to make is that if
21 we have the voter registration card and use it, or
22 if we don't have it -- require two other forms of
23 I.D., the practical effect is you can't really
24 guarantee it's that person, short of a photo I.D.
25 That's another discussion, I realize. But



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1 noneththeless, if we really want to talk about
2 language of using something to verify an identity
3 without that photo I.D., what we're doing is
4 creating an incremental step, per se. And I'm not
5 sure if it's a good one if you're going to require
6 early, or -- or whatever.

7 I think in the last Legislature and with
8 the Secretary of State's office we did a pretty good
9 job of providing a number of different kinds of
10 I.D.s that people can use. And so that's come down
11 quite a bit.

12 Last year as you know, we started with
13 provisional voting. Bexar County, as you know, had
14 about 3,000 provisional votes. In November, we
15 counted 602, but the majority that were refused were
16 wrong precinct as opposed to I.D.

17 I'd be concerned that we would be creating
18 tens of thousands of provisional voters. And I -- I
19 guess we could do that, but that's going to delay
20 results significantly if we have a large number of
21 provisional voters which could, in fact, affect the
22 turnout of an election. So I would be concerned
23 about creating that.

24 For -- a voter when offering to vote
25 presents a certificate, indicating the voter is



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1 registered to vote in a different precinct, if they
2 have the I.D. to vote, they can do that now.
3 Essentially the only reason somebody can't vote is
4 if they refuse to sign the affidavit as it exists.
5 We may or may not count it based on something else,
6 but everybody gets a chance to vote. And
7 Ms. Littles was right, voter education is really,
8 really important in terms of getting out where you
9 do vote and what you bring to vote with you.

10 I -- I mentioned it yesterday, but again I
11 would say the Secretary of State's office did a
12 really good job in making sure that the counties
13 were aware of different ways of getting the vote out
14 and allowing people to vote last fall.

15 We had record turnouts in early voting in
16 Bexar County. We has 276,000 early votes, more than
17 half of everybody who voted by a fairly large
18 margin. So the word did get out, and we're very
19 pleased with that.

20 So, again, I would ask that you take out
21 the word and in requiring both when 40 to 50 percent
22 don't bring that card now. We're just going to
23 create a bottleneck of provisional votes.

24 CHAIRMAN BOHAC: Thank you. Members,
25 do you have any questions for the witness?



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1 Mister -- Representative Anchia.

2 REPRESENTATIVE ANCHIA: Thank you,
3 Mr. Chairman.

4 This is -- the issue that you've just
5 illustrated was one of the ones that was of concern
6 to me. Currently, it's a cumulative standard. You
7 have to have in -- in -- in Section 1, Subsection B,
8 it requires both the voter's registration
9 certificate, as I read it, and then some forms of
10 identification, either one form from Sub 1 or two
11 forms from Sub 2. Is that the way you read the
12 language?

13 CLIFF BOROFISKY: Yes.

14 REPRESENTATIVE ANCHIA: So that would
15 become the rule that you need both your voter I.D.
16 card and then some other forms of -- of I.D.

17 Do you -- do you see anything else in --
18 in the legislation possibly in -- in Section 4, Sub
19 A, that would -- that would mitigate that concern?
20 And, again, I have not studied that session quite as
21 closely.

22 CLIFF BOROFISKY: No, I don't,
23 because, for instance, if someone comes in now and
24 their name is on the list, they shall be accepted.
25 We have -- but they don't have their certificate.



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1 On the combination roster there's a space to check
2 that says "Voter did not have a certificate."

3 REPRESENTATIVE ANCHIA: Uh-huh.

4 CLIFF BOROFISKY: And then you can use
5 one of the other I.D.s allowed, but you do check off
6 the fact that they do not have the certificate with
7 them. That's not punitive, the fact that you don't
8 have the certificate.

9 And I know that if you go way out on a
10 limb, you can say, well, why are we presenting
11 800,000 certificates if only half of them are
12 bringing them? Well, it's the law.

13 REPRESENTATIVE ANCHIA: Right.

14 CLIFF BOROFISKY: And so as we address
15 this I.D. issue, which, again, is a really good
16 idea -- I think, you know, that's important.

17 REPRESENTATIVE ANCHIA: And let me --
18 let me test this with you for a moment. You -- how
19 many years of experience do you have in this area?

20 CLIFF BOROFISKY: Eight.

21 REPRESENTATIVE ANCHIA: Eight years
22 of experience.

23 CLIFF BOROFISKY: In Bexar County.

24 REPRESENTATIVE ANCHIA: In Bexar
25 County.



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1 Before that, any related to elections?

2 CLIFF BOROFISKY: Other than a

3 background in government studies --

4 REPRESENTATIVE ANCHIA: Okay.

5 CLIFF BOROFISKY: -- and teaching
6 politics.

7 REPRESENTATIVE ANCHIA: Okay. In
8 your -- in your experience what would you peg the
9 incidence of fraud is -- as?

10 And without putting a number on it, is it
11 remote, minimal, medium or widespread?

12 CLIFF BOROFISKY: I would say
13 occasional.

14 REPRESENTATIVE ANCHIA: Okay.

15 CLIFF BOROFISKY: And this incident is
16 based on the kind of election you have those sort of
17 things.

18 For instance, I would suggest that they
19 happen more often in school district elections, for
20 whatever reason; I'm not sure. But there's a great
21 deal of emotion charged up with that.

22 It does happen in some cases with voter
23 registration -- voter applications for ballots by
24 mail. But I think the system has evolved reasonably
25 well in terms of I.D. at the poll sites. Even



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1 previously when we were able to challenge a voter at
2 the poll site, per se, under the challenge
3 procedure, we didn't have that many exceptions in
4 some specific campaigns. So I wouldn't say that
5 this will address that. It doesn't move that in
6 either direction.

7 REPRESENTATIVE ANCHIA: Okay. Thank
8 you for your testimony.

9 CHAIRMAN BOHAC: Any other questions,
10 Members? Thank you very much.

11 CLIFF BAROSKY:

12 CLIFF BOROFISKY: Thank you.

13 CHAIRMAN BOHAC: The Chair now calls
14 Ken Bailey to testify. He is with the Texas
15 Democratic Party, and he is here to testify against
16 the bill.

17 KEN BAILEY: Thank you, Mr. Chairman.

18 My name is Ken Bailey. I'm the Political
19 Director of the Texas Democratic Parties. And as
20 the other people have said, we're opposed to this
21 bill, because we believe that the bill penalizes the
22 voter when we should be trying to train the clerks
23 and train the county workers to where they can I.D.
24 people.

25 And in the opposite of what Representative



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1 Kolkhurst says, I've been using credit cards for a
2 long time; I don't have to show an I.D. When I go
3 to Blockbuster, I show them a little bitty card
4 that's on my key chain and they click it. So I,
5 mean, that's not -- we show a voter I.D. when we
6 register nowadays, when you get your voter
7 registration.

8 My voter registration is not on my person
9 right now. It's in my car along with my driver's
10 license -- I mean, my insurance card for my car, but
11 I do have my driver's license. So if you're
12 requiring that we have both, I think that is
13 requiring more things, when yesterday we were
14 talking how sad a state it is that we only have
15 4 percent of the people to vote, and now we want to
16 put something else on them.

17 We, as a Democratic party, think that we
18 should not do this, that this is enough right here.
19 And more training from the counties is what we would
20 like to see.

21 And I would be happy to answer any
22 questions.

23 CHAIRMAN BOHAC: Members, do you have
24 any questions? Thank you very much for your
25 testimony.



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1 The Chair now calls Alison Brock
2 representing Unlocking Your Vote Campaign to testify
3 against the bill.

4 ALISON BROCK: Hello, sir. How are
5 you?

6 CHAIRMAN BOHAC: Welcome.

7 ALISON BROCK: Alison Brock, back
8 once again. And if I may, Chairman Denny, Chairman
9 Bohac, present both testimony and comments on your
10 bill as well as Representative Cocourse's bill.

11 CHAIRMAN BOHAC: Well, if you would,
12 you just limit your testimony right now to
13 Representative Kolkhors's bill.

14 ALISON BROCK: Okay.

15 CHAIRMAN BOHAC: And you'll need to
16 fill out another form --

17 ALISON BROCK: Okay.

18 CHAIRMAN BOHAC: -- for Chairman
19 Denny's bill.

20 ALISON BROCK: Got it.

21 CHAIRMAN BOHAC: Okay.

22 ALISON BROCK: (Inaudible) my comment
23 is brief. And I think that the Members of the
24 Committee are concerned about voter fraud. And it's
25 very, very clear. And I don't think there's anyone



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1 in this room that would be encouraging or wanting to
2 support that. I think we all want to do everything
3 we can to prevent that.

4 My concern with these bills is that if you
5 put the burden on the voter to show proof of
6 identity, there may always be that opportunity that
7 they could go out and provide a false identity.
8 That seems to be going around quite a bit right now
9 and getting a false driver's license.

10 So my -- one of the things I was kind of
11 thinking about was I know that the Secretary of
12 State's office is doing a fantastic job right now of
13 developing a statewide database of all registered
14 voters in the State. And there will be a point in
15 time - I'm not sure when this will be - where the --
16 at the county level and at the state level they will
17 have a shared statewide database of all eligible,
18 qualified voters. And they are looking at -- okay.
19 They are looking at trying to get information into
20 that database that would indicate who's qualified
21 and who's not qualified. And my recommendation to
22 the Committee would be to essentially go down the
23 list of -- in Election Code in terms of who should
24 not be voting to access those databases -- if they
25 exist statewide, access those databases and input to



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1 the State -- to the Secretary of State's office
2 database each week those individuals that should not
3 be registered or should not be voting. So
4 (inaudible) list of folks that had deceived, getting
5 that list over to the Secretary of State's office.

6 I'm not an expert on their database by any
7 means and can't speak to it specifically, but that
8 was just my brief recommendation that, you know,
9 kind of go into the source of, you know, verifying
10 and coming up with accurate lists at the statewide
11 level.

12 CHAIRMAN BOHAC: Members, any
13 questions?

14 You did a terrific job. Thank you.

15 The Chair now calls Don Alexander
16 representing Texas Association of Election
17 Administrators. He -- he does not wish to testify.
18 He is for the bill.

19 The Chair now calls Bruce Sherbet. I
20 guess he is representing himself.

21 BRUCE SHERBET: Thank you, Mr. Chair.

22 CHAIRMAN BOHAC: And you wish -- you
23 are neutral on the bill?

24 BRUCE SHERBET: Yes, I am. I'm
25 (inaudible) county elections administrator, and I'm



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1 neutral on the bill.

2 CHAIRMAN BOHAC: Would you state your
3 name for the record, please.

4 BRUCE SHERBET: Yes. Bruce Sherbet.

5 CHAIRMAN BOHAC: Thank you. And
6 you're representing yourself?

7 BRUCE SHERBET: Yes. But I'm also
8 the Dallas County Elections Administrator speaking
9 from past experience in this position. I'm not
10 representing Dallas County, just my position.

11 I've been the administrator since 1987,
12 and I've been in voter registration and other areas
13 of the Election Department since 1980. And I think
14 the only thing that Cliff was referring to -- Cliff
15 Borofsky from Bexar County, is we have 4700
16 provisional ballots in the last general election,
17 and 940 of those counted. But of the ones that were
18 rejected, the 3700 that were rejected, a very small
19 number were rejected based on identification, not
20 having identification, meaning they didn't have a
21 voter certificate and had no identification. So I
22 think that would be a very interesting study to see
23 just throughout the State.

24 I think there are not that many voters
25 that come to vote without either a certificate or



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1 some form of I.D. I'm not saying there aren't some
2 that do, but I think the numbers are not as
3 significant as you might think they would be.

4 And one other follow-up things that
5 Representative Anchia -- in response to the
6 Section 4 -- I -- I thought before I came in today
7 that this covers it. And it may cover it. I didn't
8 catch it the other day. I just saw the first
9 paragraph of the bill, but it does address if they
10 don't have a voter's certificate, a signed affidavit
11 like they do right now, which is just basically
12 initialing an affidavit that they don't have a
13 certificate and then they present proof. You have
14 to present proof right now under our laws. And if
15 you don't have proof, then you vote a provisional
16 ballot and it won't count. That was pretty much
17 what I wanted to say.

18 But I wanted to follow up on your question
19 and also just address I don't think there are very
20 many voters that I've seen rejected so far. And
21 there -- you get -- those are very easy to obtain,
22 because we all have to maintain our provisional
23 ballots and why they were rejected. So I think you
24 could probably get that information pretty easily.

25 CHAIRMAN BOHAC: Members, any



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1 question for the witness?

2 Representative Anchia.

3 REPRESENTATIVE ANCHIA: Thank you,
4 Bruce.

5 I appreciate your hard work up in Dallas
6 County, and you do a fantastic job and are very,
7 very fair.

8 It is -- is it your testimony that in fact
9 the section I described earlier, Section 4, Sub A,
10 would allow one, if one did not have their -- their
11 voter registration card, to present some forms of
12 I.D. as required by Section 1B, Sub 1 and Sub 2, and
13 then be eligible to vote?

14 ANN MCGEEHAN: That's how -- that's
15 how I read it. I know Secretary of State -- they're
16 shaking their head yes. And I didn't catch that
17 until right before I came into this -- this room, so
18 I didn't catch it the other day when I saw the bill.

19 REPRESENTATIVE ANCHIA: So -- so it's
20 the substance of your testimony that you believe
21 this is a reasonable requirement to -- to place on
22 voters in order to exercise their franchise, and it
23 would not disenfranchise people, your -- your
24 experience as a county administrator for 20 --

25 BRUCE SHERBET: Well, 25 years in



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1 elections, but 18 as administrator.

2 REPRESENTATIVE ANCHIA: As the
3 administrator.

4 And it's also your testimony that there's
5 very -- your experience is that there's a very low
6 incidence of persons that come to the polling
7 location without either their certificate for -- or
8 some other forms of identification that would
9 satisfy Section 1, Sub B1 and 2?

10 BRUCE SHERBET: Right. And I agree
11 with that.

12 And I would say that right now this is a
13 transparent bill, because under our current law if
14 you don't have your certificate and you don't have
15 I.D., you vote provisionally. It doesn't count
16 anyway. So this really isn't changing anything.
17 It's requiring I.D., but it's also required right
18 now under our law. And if you don't have an I.D.,
19 if you don't have your certificate and you don't
20 have an I.D., then it's provisional. It didn't
21 count.

22 So I don't see what the difference is with
23 this bill, to be honest with you.

24 REPRESENTATIVE ANCHIA: And do you --
25 what has been your experience in terms of



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1 identification fraud in elections during your --
2 your 25 years being involved in elections?

3 BRUCE SHERBET: Well, I can tell you,
4 people indicted, I don't know of any single cases of
5 anyone indicted in Dallas County for that purpose.

6 You do hear concerns from time to time
7 about this being a problem. And I know it's
8 something that's being addressed not just in this
9 state but other states. But personally we haven't
10 had any indictments.

11 REPRESENTATIVE ANCHIA: Right.

12 BRUCE SHERBET: And that's all I can
13 base that on other than people who have concerns and
14 express them to us.

15 REPRESENTATIVE ANCHIA: Thank you for
16 your testimony.

17 CHAIRMAN BOHAC: Thank you very much.

18 The Chair now recognizes Frank Reilly with
19 the Republican Party of Texas, who is for the bill.
20 He does not wish to testify.

21 We now will recognize Anne McAfee
22 (phonetic), representing herself. And she is
23 retired. And she is against the bill.

24 UNIDENTIFIED REPRESENTATIVE: She is
25 not here. What do we do? She already checked in



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1 the "Y".

2 CHAIRMAN BOHAC: Ms. McAfee is not
3 here to testify. So we will now call -- the Chair
4 now calls Ann McGeehan from the Secretary of State's
5 office. She is neutral on the bill, and she is here
6 as a resource witness, Members. So if you have any
7 questions for Ann, if you would introduce yourself.

8 ANN MCGEEHAN: Ann McGeehan with the
9 Elections Division of the Secretary of State's
10 office.

11 I did have one point to make on the bill
12 that -- it's really just a question. But it's --
13 it's not clear the way the bill is drafted if
14 somebody did not have identification whether they
15 could vote a provisional or not.

16 Right now the existing administrative
17 rules that the Secretary of State adopted last year
18 provided if someone has no identification, they vote
19 a provisional but it doesn't get counted.

20 In House Bill 1402 there's not a direct
21 reference that says if a person does not have
22 identification they vote provisionally. So I just
23 wanted to point that out, unlike House Bill 1706
24 where there is a direct reference to provisional
25 voting. So I just wanted to raise that. I don't



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1 know if that was the intent of the Representative or
2 not, that if someone didn't have I.D. that they
3 would vote provisionally.

4 CHAIRMAN BOHAC: Any other questions?
5 All right. The Chair recognizes Representative
6 Hughes.

7 REPRESENTATIVE HUGHES: Thank you.
8 Just to make sure I understand -- and I appreciate
9 you pointing that out. Let's say House Bill 1402
10 were to become law. Would the Secretary of State's
11 office then take that to mean an intent that we
12 didn't have those provisional ballots --

13 ANN MCGEEHAN: Well, that's why I
14 raised --

15 REPRESENTATIVE HUGHES: -- I mean,
16 why did you raise it -- I mean --

17 ANN MCGEEHAN: -- because -- well, I
18 guess we -- we'd have to get with the sponsor. But
19 we could interpret that to mean that the legislative
20 intent was to not allow someone to --

21 REPRESENTATIVE HUGHES: Right.

22 ANN MCGEEHAN: -- vote a provisional
23 if they didn't have --

24 REPRESENTATIVE HUGHES: Right.

25 ANN MCGEEHAN: -- an I.D. But this



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1 was something in our rule.

2 REPRESENTATIVE HUGHES: Right. I'm
3 glad you pointed that out.

4 ANN MCGEEHAN: If they didn't have
5 I.D.

6 CHAIRMAN BOHAC: Thank you very much.

7 ANN MCGEEHAN: Thank you.

8 CHAIRMAN BOHAC: The Chair now calls
9 Nina Perales. She does not wish to testify. She is
10 with the Mexican American Legal Defense and
11 Educational Fund, and she would like to be read into
12 the record as being against the bill.

13 Anyone else wishing to testify for, on or
14 against House Bill 1402?

15 The Chair will now close on House Bill
16 1402, since Representative Kolkhorst is not here.
17 Then the Chair will leave House Bill 1402 pending,
18 which is the custom of this Committee.

19 Now, the Chair lays out House Bill 1382 by
20 Representative Jones.

21 Representative Jones, if you could explain
22 your bill. I understand there is a substitute to
23 this bill. And Representative Hughes offers
24 Committee Substitute -- the Committee Substitute to
25 House Bill 1382.



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